

REPORT

of the

SECOND PRESS COMMISSION



VOLUME—I

CHAPTER I—XIII

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## I. INTRODUCTION

The First Press Commission constituted in 1952 made a comprehensive study of the problems of the Indian Press and submitted a valuable report in July 1954. The present Commission—which is the second of its nature—was constituted by the Government by Notification No. 2/1/77-Press dated 29th May 1978, with the following Terms of Reference :

“The Press Commission shall enquire into the growth and status of the Indian Press since the last Press Commission reported and suggest how best it should develop in future. It shall, in particular, examine :

- (1) The present constitutional guarantee with regard to the freedom of speech and expression, whether this is adequate to ensure freedom of the Press, and the adequacy and efficacy of the laws, rules and regulations relating to and affecting the Press.
- (2) Means of safeguarding the freedom and independence of the Press against pressures of all kinds from Government, proprietors, advertising, commercial, trade union, political or other sources in a plural and democratic society.
- (3) Ownership patterns and the financial structure of organs of the Press with a view to ensuring editorial independence and professional integrity and the readers' right to objective news and views and comments freely expressed.
- (4) The relationship that should exist between the Government and the Press especially with regard to access to information, accreditation, official patronage or subsidies.
- (5) The structure and functioning of the existing news and feature agencies and measures necessary for their growth as strong and viable organisations that can cover news monitoring at every level right down to the grassroots and also world news.
- (6) Relations that should subsist between different elements of the Press, viz., publishers, managers, editors and other professional journalists, etc.
- (7) Measures necessary to raise and maintain high standards of journalism and to inculcate among journalists and newspapers a due sense of public and social responsibility corresponding to the power of the

Press, its role in national reconstruction and its obligations to the readers.

- (8) Ways and means to promote the growth and development of the language and regional Press as also the periodical Press, specialised journals and syndicated services.
- (9) The economics of the newspaper industry, including ways and means of rectifying deficiencies and evolving the basis for a fair price for newspapers keeping in view legal and constitutional requirements.
- (10) The adequacy of training in communications journalism, newspaper management, printing technology and newspaper design and graphics as also the desirability and feasibility for higher learning in journalism and mass communications.”

2. The Chairman of the Commission was Shri Justice P. K. Goswami Retired Judge of the Supreme Court, and the Members were Sarvashri Abu Aoraham, Cartoonist, *Indian Express*, Delhi; Prem Bhatia, Editor-in-Chief, *Tribune*, Chandigarh; S. N. Dwivedy, former Member of Parliament; Moinuddin Harris, Urdu Journalist; Professor Ravi J. Matthai, Economist and Professor; Indian Institute of Management, Ahmedabad; Yashodhar N. Mehta, Advocate; V. K. Narasimhan, Editor, *Deccan Herald*, Bangalore; Fali S. Nariman, Senior Advocate, Supreme Court; S. H. Vatsyayan, Editor, *Nav Bharat Times*, Delhi and until September 1978 Shri Arun Shourie, Senior Fellow, Indian Council of Social Science Research. Shri Nikhil Chakravarty, Editor *Mainstream*, Delhi was appointed Member in December 1978 in place of Shri Arun Shourie who resigned. The Commission was expected to submit its report by 1st June 1979. Its term was extended, first till 31st December 1979 and then till 31st March 1980.

3. Shri Justice Goswami and his colleagues in the Commission resigned on 14th January 1980 after the formation of a new Government at the Centre in the wake of the Seventh General Elections to the Lok Sabha.

### *Reconstitution and Revised Terms*

4. The Commission was reconstituted. Shri Justice K. K. Mathew, Retired Judge of the Supreme Court, was appointed Chairman by Notification No. 14/5/80-Press, dated 21st April 1980. The names of ten Members were notified on 18th June 1980. They were : Shri Justice Sisir Kumar Mukherjea, Retired

Judge of the Calcutta High Court; Smt. Amrita Pritam, poet and novelist; Sarvashri P. V. Gadgil, author and journalist; Ishrat Ali Siddiqui, Editor, *Qaumi Awaz*, Lucknow; Rajendra Mathur, Chief Editor for *Nai Duniya*, Indore; Girikal Jain, Editor, *Times of India*, Bombay; K. R. Ganesh, former Union Minister of State; Madan Bhatia, Advocate, Supreme Court; Ranbir Singh, Editor, *Milap*, Delhi; and Professor H. K. Paranjape, Economist and former Chairman, Railway Tariff Inquiry Committee, and former Member, Monopolies and Restrictive Trade Practices Commission.

5. The Terms of Reference of the reconstituted Commission, which was expected to submit its report by 31st December 1980, were notified on 24th July, 1980. They are as follows :

"The Press Commission shall inquire into the growth and status of the Press since the First Press Commission reported and suggest how best it should develop in future.

It shall, in particular, examine and make recommendations on :

- (1) The role of the Press in a developing and democratic society;
- (2) The present constitutional guarantee with regard to the freedom of speech and expression; whether this is adequate to ensure freedom of the Press; adequacy and efficacy of the laws, rules and regulations for maintaining this freedom;
- (3) Constitutional and legal safeguards to protect the citizen's right to privacy;
- (4) Means of safeguarding the independence of the Press against economic and political pressures and pressures from proprietors and management;
- (5) Role of the Press and the responsibilities it should assume in developmental policies;
- (6) The Press as an industry, a social institution and a forum for informing discussion of public affairs;
- (7) Ownership patterns, management practices and financial structures of the Press; their relation to growth, editorial independence and professional integrity;
- (8) Chain newspapers; links with industry, their effect on competition and on the readers' right to objective news and free comments;
- (9) Economics of the newspaper industry; newsprint, printing machinery and other inputs for newspapers;

- (10) Advertising—Government and private educational and commercial;
- (11) Government—Press relations and the role of official agencies;
- (12) Relations that should subsist between different elements of the Press, namely, publishers, managers, editors and professional journalists and others;
- (13) Growth of small and medium papers and of the language Press;
- (14) Development of the periodical Press and specialised journals;
- (15) News coverage and news values; structure and functioning of news agencies and feature agencies; flow of news to and from India;
- (16) Training of professional manpower; steps to improve professional standards and performance; research in journalism and mass communication;
- (17) Journalism as a means of better mutual understanding in the context of proposals for a new international information order;
- (18) Perspective of newspaper development."

6. On the resignation of Shri Madan Bhatia, Shri Prem Chand Verma, Chief Editor, *Jagat* and *Ekta Sandesh* weeklies, President of the All India Small and Medium Newspapers' Association, Member of the Press Council, and former Member of the Lok Sabha, was appointed Member by Notification dated 16th October 1980.

7. By the same Notification, Shri Justice A. N. Mulla, Retired Judge of the Allahabad High Court and former Member of the Lok Sabha and the Rajya Sabha, was appointed in addition, raising the number of Members to 11 besides the Chairman. With the subsequent resignation of Smt. Amrita Pritam, which was accepted on 29th January 1981, the strength of the Commission remained ten, besides the Chairman.

8. The Goswami Commission (the Commission before its reconstitution) prepared 30 questionnaires (Appendices I. 1—30) relating to the various Terms of Reference. These were sent to appropriate categories of persons including 14,265 editors and publishers; 3,600 Press correspondents; 4,842 members of Parliament and of State legislatures; 1,941 members of the legal profession including Judges of the Supreme Court and High Courts; and 300 officials of the Central and State Governments. Four questionnaires were addressed to the editor/publisher of each of the 1012 dailies listed in *Press in India : 1977*; 194 completed questionnaires were received (response rate of 4.79

per cent). The questionnaire addressed to the editors of the 13,253 periodicals listed in *Press in India : 1977* elicited replies from 283 (2.14 per cent). The response from 327 news agency addressees was 16.2 per cent, and 10.6 per cent from the 160 advertising agencies. Out of a total of 1,83,453 copies of questionnaires sent out, 7,029 replies were received (3.83 per cent).

9. The Goswami Commission obtained evidence from 811 witnesses during its sittings held all over the country, and received 231 memoranda from individuals and institutions. More than 200 studies on various aspects of the Indian Press were initiated.

10. The reconstituted Commission issued two new questionnaires (Appendices I.31-32), one on the citizen's right to privacy and the other on advertising. The questionnaire, on the citizen's right to privacy was sent to 7,138 individuals and organisations. The responses numbered 229 (3.2 per cent). The questionnaire on advertising was addressed to 386 advertising agencies. Twenty-seven of them responded (7 per cent).

11. Fresh evidence was taken and data obtained, particularly in relation to the new Terms of Reference including the role of the Press in a developing and democratic society; the citizen's right to privacy; the growth and problems of small and medium newspapers; and news flows, domestic and international. Detailed information was sought on the economics of newspaper production, chain newspapers, their links with industry and their effect on competition. Studies were also initiated to obtain information on the news and advertisement contents of 234 big, medium and small daily newspapers in the various languages, accounting between them for nearly 70 per cent of the circulation of all dailies in the country; on the techno-economic aspects of newspaper publishing; and on the likely size of the Press and the profile of its readership in the year 2001. The names of witnesses examined, the names of persons and institutions who submitted memoranda and the titles of studies commissioned are mentioned in Appendices I.33, I.34 and I.35 respectively.

12. In view of the work arising from the revised Terms of Reference, the Commission—the process of whose reconstitution was completed only in October 1980—sought extension of its term by a year from 31st December 1980 to 31st December 1981. This was accepted and formally notified by Government on 31st December 1980. Later, on 16th October 1981, the Commission sought another brief extension by three months up to 31st March 1982 for drawing up its Report. This was accepted and notified by Government on 21st December 1981. A further extension by 15 days, up to 15th April 1982, was notified on 31st March 1982.

13. There was a change in the incumbency of the post of Secretary to the Commission. Shri M. V. Desai, formerly Director, Indian Institute of Mass Communication, who had been posted as Secretary of the

Goswami Commission with effect from 20th June 1978 continued in that capacity after the reconstitution of the Commission till his retirement on superannuation on 31st October 1980. The Chairman conveyed to Shri Desai the Commission's high appreciation of the services rendered by him. Shri G.N.S. Raghvan, Professor at the Indian Institute of Mass Communication, took charge as Secretary on 28th November 1980.

#### *Procedure of work*

14. In the regulations of procedure initially framed by the Goswami Commission and notified on 6th January 1979, it was provided *inter alia* that "all hearings of the Commission will be open to the public except when the Commission may, for any sufficient reason, think it fit to sit *in camera*". The Goswami Commission decided on 29th January 1979 to drop this provision and to take evidence *in camera*; evidence began to be taken from February 1979. The reconstituted Commission examined witnesses *in camera* so as to enable them to speak freely and frankly.

15. Another decision taken by the Goswami Commission and adhered to by us was that the coercive powers of a Civil Court conferred by the Commissions of Inquiry Act would not be invoked, since it might only lead to litigation and delays, and also in the hope that all concerned would cooperate with us by giving the information needed by us. While we did obtain co-operation in a large measure, there were some areas of inquiry where our efforts together relevant information were not altogether successful. One such area was newspaper economists, in respect of which many newspapers failed to furnish data on revenue and expenditure, specially in respect of individual publications and editions, and another area was data on the rates and total value of advertisements released to different newspapers by the Central and State Governments. Details of the inadequacy of response from non-official institutions and official agencies are given in the respective Chapters and the references are enumerated in Appendix I.36.

16. The Research Wing of the Commission's secretariat prepared a series of Working Papers giving background data and posing issues for consideration by the Commission. The Research Wing also prepared a number of General Papers of an informative nature bearing on the functioning of the Press in India and in various countries of the world.

17. We recommend to Government that copies of the various studies initiated by the Commission, and of the Working Papers and General Papers prepared by its secretariat, be made over, on completion of the Commission's work, to appropriate institutions such as the Indian Institute of Mass Communication and the research and Reference Division of the Ministry of Information and Broadcasting, for future reference.



18. Appendix I.37 gives the venue and dates of meetings of the reconstituted Commission and participation therein. Appendix I.38 indicates the expenditure incurred on the Commission since its inception in May 1978.

#### *Acknowledgements*

19. We have profited from the pioneering work done by the First Press Commission and the data gathered and views offered by subsequent inquiries including the Inquiry Committee on Small Newspapers headed by Shri R. R. Diwakar (1964-65); the Fact Finding Committee on Newspaper Economics headed by Dr. Bhabatosh Dutta (1972—75); and the Committee on News Agencies under the chairmanship of Shri Kuldip Nayar (1977). Besides these, there have been three Wage Boards/Tribunals for Working Journalists and Non-Journalist Newspaper Employees, whose reports contain a wealth of data on newspaper organisation and economics.

20. We are grateful for the co-operation extended to us by all those who gave evidence before the Commission, submitted memoranda, replied to questionnaires and furnished information sought by us.

21. We would like to place on record our appreciation of the work put in by officials of the secretariat (see Appendix I.39) before and after the reconstitution of the Commission. We would like to mention in particular Shri B. I. Saini, Director of Research, Sarvashri Gautam Dutta, A. K. Chatterji and Surendra Mohan, Senior Research Officers, and their colleagues in the Research Wing who assembled and analysed a wealth of data on the growth of the Press and of news agencies and on the techno-economic aspects of the newspaper industry; Shri K. S. Ramamurthi, Deputy Secretary, who assisted in the supervision of the research work and in the drafting of the Report, and Shri G. N. S. Raghavan who, as Secretary, planned the preparation of Working Papers and General Papers related to the various Terms of Reference, assisted the Chairman in conducting the Commission's deliberations, and was of great help to us in drafting the Report. We would also like to express our appreciation of the work of Shri N. Subramanian, Director (Administration), Shri P. S. Herie, Administrative Officer and their colleagues who attended efficiently to the administrative work of the Commission, and Shri H. L. Chandra Mouly who as Private Secretary was of great assistance to the Chairman.



## II. RETROSPECT : 1952—1982

The first comprehensive effort at compilation of data on the number of and circulation of newspapers\* in the country, was made by the First Press Commission.

### *The Press in 1952*

2. It found that at the end of 1952, there were 330 dailies, 1,189 weeklies and 1,733 journals of other periodicities in existence. The dailies had a combined circulation of a little over 25 lakhs. The Commission could not secure data on the circulation of periodicals.

3. An attempt was also made to compare the number of newspapers in 1952 with the number that existed in 1939 and 1947. But it had to be abandoned as State Governments did not have information for the year in which various newspapers started or ceased publication.

4. Finding that the number and circulation of newspapers was low, the First Press Commission observed that there was an immediate potential for a very large increase in readership, much greater in the rural areas than in the urban areas. It found that the reasons preventing interested households from going in for newspapers were primarily the cost, and lack of distribution facilities.

### *Press Registrar's Reports : Limitations of Data*

5. Availability of data on the number and circulation of dailies and periodicals is better now than when the First Press Commission made its pioneering effort to secure information. The improvement is the result of its recommendation that an office of Press Registrar be created. However, the figures given in the successive annual reports of the Press Registrar—starting with the first *Annual Report of the Registrar of Newspapers for India*, giving the data for the second half of 1956—are subject to several limitations.

6. Not all newspapers furnish circulation figures to the Press Registrar, even though this is required under the Press and Registration of Books Act. For example, the 24th Report of the Press Registrar covering 1979 lists 1,173 dailies. However, the Press Registrar received circulation figures only from 690 out of them. Out of the 15,995 periodicals listed for the same year, circulation figures were available only in respect of 7,362.

\*The term 'newspapers' is used to denote dailies as well as journals of all periodicities, as in the annual reports of the Press Registrar.

### *Circulation figures*

7. The circulation figures of newspapers which supply this information to the Press Registrar are not reliable in a large number of cases. The circulation data given in the reports of the Press Registrar reflect the statements made by the newspapers themselves. Only in some cases are the claims checked by circulation teams of the Press Registrar. For example, in 1979 the circulations of only 606 newspapers were checked. In more than 50 per cent of these cases, the circulation claims could not be established for one reason or the other as shown below :

1. Number of newspapers taken up for check by circulation teams in 1979	656
2. Number of cases pending from the previous year	162
3. Number of newspapers/periodicals whose circulation claims were still under investigation at the end of 1979	212
4. Number of cases of newspapers finalised during the year (1+2-3)	606
5. Newspapers/periodicals whose circulation claims were found to be in order	272
6. Newspapers/periodicals whose circulations was assessed lower	181
7. Newspapers/periodicals whose circulation claims were treated as 'un-established' as no satisfactory records could be produced by the publishers	92
8. Newspapers/periodicals which were reported to have ceased publication or which could not be traced at the given address	61

8. A number of publishers and journalists—representatives of big as well as small and medium newspapers—who appeared before the Commission admitted that exaggeration of circulation claims is a widespread practice on the part of newspaper establishments. Circulation claims are exaggerated in order to get increased allocation of newsprint and/or to attract more advertising at higher rates. In addition to circulation checks by the Press Registrar's teams, circulations are also verified by the Audit Bureau of Circulations, a non-official organisation established by newspaper publishers, advertisers and advertising agencies. However, the membership of ABC, as of 1981, is only 118 daily newspapers and 132 periodicals.

### *Number of newspapers*

9. Even in respect of the number of newspapers, especially periodicals, the information pertaining to a particular year is not quite up-to-date since the reporting system available to the Press Registrar on cessation of publication of newspapers is imperfect.

A survey was conducted by the Commission's secretariat during 1981 with the co-operation of the All-India Small and Medium Newspapers Association to verify the actual existence and ascertain the felt needs of small and medium newspapers listed in the Report of the Press Registrar covering 1979 (Study No. 222). Of about 17,000 letters that were sent out, 1,160 were received back undelivered indicating that the papers had ceased to exist. It is far from certain that the cessation of publication was only some time after 1979.

10. We also commissioned a survey (Study No. 197) during 1979 to find out how many of the dailies and other journals with a periodicity of up to a month published from Delhi and registered with the Press Registrar as per *Press in India* 1978 actually existed. The survey was carried out by a team of field investigators. It was found that only 58 per cent of the publications listed in the annual report of the Press Registrar actually existed. The main findings of the study are given in Appendix II.1.

11. We came across allegations that several newspapers appear once in a while, whenever their publishers are able to mobilise adequate advertising support from business organisations or public authorities. In this connection it was stated that some newspapers indulged in publication of scandalous stories to blackmail businessmen or officials into giving advertisements. Malpractices that came to the Commission's notice include publication of two or three issues on the same date, the same matter being published as two or more issues by merely changing the date, and a sheet used for producing a Hindi newspaper on one side and an Urdu newspaper on the other side, each of them securing registration numbers from the Press Registrar. Several such shocking instances have been documented in the Report of the Information Reorganisation Committee of the Uttar Pradesh Government and are referred to in Appendix II.2.

12. A large number even of daily newspapers listed in the annual reports of the Press Registrar do not secure newsprint and do not subscribe to wire services and other news agencies. Information given in the annual report of the Press Registrar covering 1979 shows that only about 50 per cent of the dailies listed in the report got newsprint. The proportion of weeklies and other periodicals getting newsprint is much less, as indicated in the Table below :

TABLE I  
No. of newspapers getting newsprint—1979

Periodicity	No. of newspapers listed	No. of newspapers which supplied circulation figures	No. of newspapers which got newsprint allocation
Daily	1,173	690	596
Weekly	5,023	2,207	606
Other periodicals	10,972	5,155	837
TOTAL	17,168	8,052	2,039

13. For providing an adequate news service to its readers, a daily newspaper—unless it is highly specialised or wholly local in its subject-matter—has to have arrangements for coverage of events in the country and the world. The need for subscribing to a wire service is greater in the case of general-interest small and medium newspapers which cannot afford to post their correspondents at a number of places. We found that only 454 dailies were subscribing to one or more of the four wire news agencies in July 1981. Of these, 65 were big (circulation of more than 50,000); 100, medium (circulation between 15,000 and 50,000); and 267, small (circulation less than 15,000) dailies. Twenty-two did not supply their circulation figures to the Press Registrar in 1979.

14. The classification of the newspapers referred to in the above paragraph as big, medium and small is in accordance with the definition employed by the Press Registrar. The classification was first adopted in the Annual Report of the Press Registrar covering the year 1968. On account of growth in the circulation of newspapers since then, the definition of 'big', 'medium' and 'small' calls for reconsideration. Moreover, the Press Registrar classifies, on the basis of circulation, newspapers as 'small' or 'medium' even if the newspapers belong to newspaper undertakings of very large size, bringing out other dailies and periodicals with big circulations. We are of the view that the Press Registrar should identify clearly, in the statistics presented in his annual reports, the number and names of the newspapers that are classified as 'small' or 'medium' but which belong to big newspaper undertakings.

15. Another instructive comparison is of the total number of newspapers of various periodicities as listed by the Press Registrar with the number of newspapers on the media list of the DAVP. We found that only 553 dailies out of the total of 1,173 and 1,540 periodicals out of the total of 15,995 listed in the *Press in India* 1980 were on DAVP's media list in 1980. This works out to a little less than half in the case of dailies, and hardly 10 per cent in the case of periodicals.

16. Four organisations of newspaper publishers are represented in the Press Council. The number of newspapers which are members of these associations of newspaper publishers, as reported by the associations is as follows :

(i) Indian and Eastern Newspaper Society (As on 30-10-1981).	387
(ii) Indian languages Newspapers Association (As on 16-12-1981).	309
(iii) All-India Small and Medium Newspapers Association (As on 30-9-1981).	558
(iv) All-India Small and Medium Newspapers Federation (As on 12-8-1981).	407
	<hr/> 1,661

A number of these 1,661 newspapers are members of two or more of the four organisations.

### *Area of circulation*

17. The circulation figures given in the annual reports of the Press Registrar do not indicate the area or areas where a newspaper has substantial circulation. The listing of newspapers published in a State or Union Territory, along with the figures of their total circulation, can create misleading impression regarding the relative position of newspaper circulation in different parts of the country. We made a study of the circulation of a cross-section of big, medium and small dailies on the basis of certificates of the Audit Bureau of Circulations (ABC) for the period 1st July to 31st December, 1980. The study showed that 24.90 per cent of the circulation of 10 leading dailies in the big category was outside the states from where they were coming out. In the case of 10 medium category dailies, the percentage was found to be 20.01; in the case of six small dailies, it was 11.64. Appendix II.3 gives the circulation of individual dailies of different categories—big, medium and small—within the states from which they were published, in the second half of 1980.

18. Though the ABC certificates give the number of copies of dailies and periodicals circulating in different states, the ABC figures do not cover the entire Press in the country. While most of the big and a large number of medium newspapers are members of the ABC, very few small newspapers are members. In the first half of 1981, of the 83 dailies covered by ABC certificates, 48 belonged to the big and 30 to the medium category while only five belonged to the small category.

19. These limitations of the data available have to be kept in mind in the discussion of the growth in the number and circulation of newspapers since the First Press Commission reported.

20. According to *the Press in India* 1980, the number of dailies went up to 1,173, of weeklies to 5,023 and of other periodicals to 10,972 in 1979. The increase in the number of dailies is more than 250 per cent over the 1952 figure, and of weeklies more than 300 per cent. In the case of other periodicals, the increase is more than 530 per cent.

21. The circulation of dailies has gone up to 132.29 lakhs, an increase of 423.9 per cent over the figure of a little over 25 lakhs at the end of 1952. In the case of weeklies, the circulation has increased from 30.20 lakhs in 1956 (the earliest year for which circulation data are available) to 129.24 lakhs in 1979, an increase of 327.94 per cent. The circulation of other periodicals has gone up from 50.24 lakhs in 1956 to 202.96 lakhs in 1979, an increase of 303.98 per cent. Appendix II.4 gives the number and circulation of dailies, weeklies and other periodicals in 1952, 1956, 1960, 1965, 1970, 1975 and 1979.

### *Low diffusion rate*

22. Though India now has the second largest number of daily newspapers in Asia and the fourth largest in the world (after the United States, the Federal S/1 I&B/82—3

Republic of Germany and China), the circulation of newspapers relative to the population continues to be very low. This is despite the increase in literacy from 15.67 per cent at the 1961 Census to 36.17 per cent at the 1981 Census. The MacBride Commission's Report\* says that Asia (excluding the Arab countries) had a circulation of 65 copies of dailies per 1,000 inhabitants in 1975. Japan had a circulation of well above 500 copies of dailies per 1,000 people during the same year. In India the diffusion rate of dailies per 1,000 people was only about 15.4 copies in 1975. While it may not be appropriate to compare India with a highly industrialised country like Japan, even a comparison with Malaysia and Sri Lanka is not favourable. Against a diffusion rate of 19.7 copies per 1,000 people in India in 1979, Malaysia had a circulation of 75 copies and Sri Lanka of 49 copies per 1,000 people even in 1970.

### *Meagre consumption of newsprint*

23. The low level of circulation of dailies and periodicals in India is also brought out by data on the consumption of newsprint per 1,000 people in India and other countries. The information given in the UNESCO Statistical Year-Book, 1980 shows that the consumption of newsprint per 1,000 inhabitants was 355 kilogrammes in Burma, 613 kilogrammes in Indonesia, 646 kilogrammes in Sri Lanka and 1,494 kilogrammes in China, compared to only 328 kilogrammes in India. The figures for the Western countries are much higher, running into tens of thousands of kilogrammes per 1,000 inhabitants. Appendix II.5 gives the comparative figures of consumption of newsprint per 1,000 inhabitants in 17 countries apart from India.

24. Between 1960 and 1979, there was an increase of about 50 per cent in the circulation per 1,000 people in India in the case of dailies and of weeklies, and of about 70 per cent in the case of other periodicals. But when the growth in literacy is taken into account, the increase in circulation is seen to have barely kept pace. The circulation of dailies per 1,000 literate people has gone up by just seven copies from 50.4 copies in 1960 to 57.4 copies in 1979. In the case of weeklies, the diffusion rate has gone up from 50.0 copies to 56.1 copies per 1,000 literate people. For other periodicals, the increase is from 80.6 copies to 88.1 copies. Appendix II.6 gives the circulation of newspapers per 1,000 population over the years since 1952. Appendix II.7 gives the availability of copies of dailies, weeklies and other periodicals per 1,000 literate population in 1960, 1970 and 1979.

### *Growth of the Press in relation to other media*

25. The increase in the circulation of newspapers has been at a slower pace compared with the growth

\*"Many Voices, One World: Communication and Society—Today and Tomorrow", UNESCO, 1980.

of other media. As Appendix II.8 shows, the number of licensed radio sets in the country went up from 21,42,754 in 1960 to 2,06,74,113 in 1979, an increase of 864.84 per cent. The number of licensed TV sets went up from 4,170 in 1966 to 11,51,311 in 1979, an increase of 26,609.38 per cent. Between 1960 and 1979, the increase in circulation in the case of dailies was 148.76 per cent and in the case of other periodicals, 140.95 per cent only.

26. As we have noted in para 17, the State-wise figures of circulation given in the annual reports of the Press Registrar are related only to newspapers published in a particular State and not to the number of copies actually circulating in the State. They are indicative only of development of the Press at centres of publication in different States, and not of the growth of readership in the States. They show the areas where the public has easy access to dailies and other periodicals, and States and Union Territories which have to depend on newspapers from outside the State or Union Territory to meet their need for information. At one end in the development of the Press are States like Kerala and Maharashtra from where a large number of dailies and other periodicals with sizeable circulations originate; at the other end are States like Nagaland and Sikkim where a Press of any significant size is yet to develop.

27. To get a comparative picture of the actual circulation of copies of dailies and other periodicals in different States, we prepared an analysis of the circulation pattern—State-wise—on the basis of certificates of the Audit Bureau of Circulations. It has, however, to be kept in mind, as already pointed out, that the ABC certificates do not give a comprehensive picture of the Press in the country as a whole. The analysis covered the period January—June 1981 when the ABC certificates gave circulation figures State-wise in respect of 181 newspapers. According to their periodi-

city and circulation, the newspapers fell into the following categories :

TABLE II  
Newspapers covered by ABC certificates  
January—June 1981

Circulation range	Dailies	Weeklies	Other periodicals
Above 50,000 (big)	48	34	24
15,000 to 50,000 (medium)	30	10	20
Less than 15,000 (small)	5	6	4
<b>TOTAL</b>	<b>83</b>	<b>50</b>	<b>48</b>
Combined circulation as per cent of the total circulation given in the annual report of the Press Registrar covering 1979	66.67	44.60	16.81

28. Analysis of the ABC data shows that there is a wide variation in the level of circulation of dailies, weeklies and other periodicals in different States and Union Territories. In the circulation of dailies, Kerala with 44.14 copies and Maharashtra with 24.71 copies per 1,000 population are at the top among the States. At the other end are States like Assam with 1.95 copies, Sikkim with 2.72 copies and Nagaland with 3.62 copies per 1,000 population. Among the Union Territories, Chandigarh with 116.22 copies and Delhi with 48.30 copies per 1,000 population are at the top. Chandigarh, and Delhi to a substantial extent, have the character of cities with a few outlying villages which also are highly urbanised.

29. In the circulation of dailies per 1,000 of literate population, Kerala with 63.80 copies and Punjab with 52.29 copies are at the top. Among the Union Territories, Chandigarh with a circulation of 179.73 copies and Delhi with 79.09 copies are at the top. The findings in respect of different States and Union Territories are given below :

TABLE III  
Circulation of newspapers related to population and literacy : ABC — January—June 1981

Sl. No.	State/Union Territory	Circulation per 1,000 population			Circulation per 1,000 literate population		
		Dailies	Weeklies	Other periodicals	Dailies	Weeklies	Other periodicals
1	2	3	4	5	6	7	8
1.	Andhra Pradesh	11.65	10.27	4.13	41.42	34.30	13.80
2.	Assam	1.95	1.02	1.52	N.A.	N.A.	N.A.
3.	Bihar	4.27	1.33	3.36	16.43	5.13	12.90
4.	Gujarat	19.70	11.22	4.00	45.03	25.65	9.13
5.	Haryana	10.66	1.72	2.72	29.75	4.80	7.59
6.	Himachal Pradesh	10.18	3.19	2.65	24.27	7.60	6.31
7.	Jammu & Kashmir	4.76	3.32	2.83	N.A.	N.A.	N.A.
8.	Karnataka	16.09	10.91	6.87	41.90	28.41	17.88

1	2	3	4	5	6	7	8
9.	Kerala . . . . .	44.14	33.22	13.00	63.80	48.02	18.79
10.	Madhya Pradesh . . . . .	6.96	2.13	3.76	25.03	7.66	13.53
11.	Maharashtra . . . . .	24.71	22.74	6.14	52.17	48.01	12.96
12.	Manipur . . . . .	3.77	2.19	1.89	8.98	5.21	4.50
13.	Meghalaya . . . . .	3.93	1.93	2.16	11.84	5.81	6.51
14.	Nagaland . . . . .	3.62	2.51	2.83	8.60	5.96	6.72
15.	Orissa . . . . .	4.54	1.02	1.49	13.29	2.99	4.36
16.	Punjab . . . . .	21.31	3.25	6.64	52.29	7.97	16.29
17.	Rajasthan . . . . .	5.09	2.48	3.09	21.18	10.31	12.87
18.	Sikkim . . . . .	2.72	44.78	5.63	8.03	132.26	16.63
19.	Tamil Nadu . . . . .	16.25	32.64	6.65	35.49	71.30	14.52
20.	Tripura . . . . .	3.98	0.31	0.26	9.57	0.74	0.61
21.	Uttar Pradesh . . . . .	5.04	1.58	3.74	18.40	5.77	13.65
22.	West Bengal . . . . .	17.48	1.62	2.56	42.77	3.97	6.26
23.	Andaman & Nicobar Islands . . . . .	4.34	8.24	4.36	8.40	15.98	8.44
24.	Arunachal Pradesh . . . . .	1.07	1.82	1.05	5.33	9.05	5.24
25.	Chandigarh* . . . . .	116.22	34.12	36.48	179.73	52.76	56.41
26.	Dadra & Nagar Haveli . . . . .	0.01	6.92	0.01	0.04	25.71	0.04
27.	Delhi . . . . .	48.30	28.26	51.00	79.09	46.28	83.51
28.	Goa, Daman & Diu . . . . .	8.08	15.24	7.72	14.48	27.30	13.83
29.	L. & M. Islands . . . . .	..	0.01	..	..	0.18	..
30.	Mizoram . . . . .	0.95	1.51	0.77	1.60	2.54	1.30
31.	Pondicherry . . . . .	22.89	40.65	6.73	42.15	74.85	12.40
TOTAL . . . . .		12.90	9.07	4.99	37.06	26.06	14.34

NOTE : For working out the circulation per 1,000 literate population, the number of literate persons given in the 1981 Census Paper No. 1 has been used. This information is not available for Assam and Jammu & Kashmir.

\*The figures might include copies distributed from Chandigarh in neighbouring villages of other states.

#### Language-wise growth

30. As anticipated in the First Press Commission's Report, Indian language newspapers have had a much faster rate of growth than English language newspapers. In terms of number and circulation, English has yielded its top position to Hindi. Other Indian languages which have increased their share in the total circulation are Malayalam, Bengali, Kannada, Punjabi and Telugu. The share of Tamil, Urdu, Marathi and Gujarati in the total circulation of newspapers has come down.

#### Circulation and literacy language-wise

31. The Census figures compiled every ten years give the literacy level in different States and Union Territories but not the number of literate people in different language groups. To find out the circulation of newspapers among the literate people in different language groups, the number of the literate in different language groups was worked out by relating the number of people knowing a particular language in different States and Union Territories to the literacy level in a given State or Union Territory.

32. The circulation of dailies, weeklies and other periodicals per 1,000 of the literate population in different Indian language groups worked out on this basis for the year 1979 is as follows :

TABLE IV  
Circulation in relation to literacy

Language	Dailies	Weeklies	Other periodicals
Hindi . . . . .	41.67	45.48	68.81
Tamil . . . . .	38.86	102.65	86.73
Malayalam . . . . .	73.99	79.40	79.52
Bengali . . . . .	39.57	32.42	61.63
Gujarati . . . . .	78.72	48.80	64.77
Marathi . . . . .	55.18	20.93	35.61
Urdu . . . . .	52.31	71.35	53.42
Telugu . . . . .	30.04	30.60	50.12
Kannada . . . . .	42.81	49.60	72.36
Punjabi . . . . .	30.89	46.47	29.47
Oriya . . . . .	16.63	2.53	21.45
Assamese . . . . .	21.51	22.76	9.35
Sindhi . . . . .	21.59	51.13	22.72

33. A comparison of the availability of daily newspaper copies per one thousand of language-speakers (Appendix II.9)\* with the availability of daily newspaper copies per one thousand of the literate among the respective language speakers suggests variations in the level of curiosity for information and/or political awareness among the literate, as well as in publishing enterprise, in different parts of the country. The relatively high figures of the diffusion rate of dailies in Gujarati and Hindi among the literate in those languages, as compared to Tamil, Marathi and Bengali, apparently reflect the lower incidence of reading of English language newspapers in Gujarat and in the Hindi-speaking States. Another point of interest is the wide circulation of periodicals in certain parts of the country such as Tamil Nadu and Kerala. Appendix II.10 gives the detailed figures in respect of these languages for 1979 and also for 1960 and 1970.

#### Urban base

34. As many as 30.3 per cent of newspapers of all periodicities were, in 1979, published from the four metropolitan cities of Bombay, Calcutta, Delhi and Madras. Other State capitals and headquarters of Union Territories accounted for 16.6 per cent and other cities with a population of one lakh and above for 29.7 per cent of all newspapers. These three categories of bigger cities thus accounted for 76.6 per cent of all newspapers. Only 23.4 per cent of the total number of newspapers were published from towns and other places with a population up to one lakh. There were 18 cities in the country which had more than one hundred newspapers each in 1979. Together, these cities account for over 50 per cent of the total number of newspapers in the country.

35. As far as circulation is concerned, dailies coming out from the bigger cities (totalling 144 in 1979) claimed 93.3 per cent of the total circulation of dailies in the country. A substantial part of the circulation of daily newspapers is outside the places of publication. A study of the circulation of a cross-section of dailies on the basis of ABC certificates showed that 52.70 per cent of the circulation of 10 leading dailies in the big category was outside the places of publication. In the case of 10 medium category dailies, the percentage was found to be 47.85 per cent; in the case of seven small dailies, it was 55.32 per cent. (Appendix II.11 gives details of the circulation of these newspapers at their places of publication in 1979).

36. Even copies which go out of the places of publication are mainly bought and read in towns and not in rural areas. To ascertain the urban and rural readership pattern, the Commission's secretariat wrote to 30 dailies—10 each in the small, medium and big

category—requesting them to supply\* information on their urban rural readership profile during the period August—October 1981. Only 11 dailies—four belonging to the big, five to the medium and two to the small category—supplied the information. The information obtained shows that nearly four-fifths of the readership is in urban areas. Only in three cases out of the eleven was circulation more in rural areas than in urban areas. The Table below gives the information in respect of individual dailies :—

TABLE V

*Urban-rural break-up of circulation of selected dailies 1981*

Name of the daily and place of publication	Language	Total circulation	Urban circulation	Rural circulation
1. Andhra Bhoomi (Telugu) Secunderabad		13,330	10,501 (78.78)	2,829 (21.22)
2. Andhra Patrika (Telugu) Vijayawada		35,906	29,205 (81.33)	6,701 (18.67)
3. Chandrika (Malayalam) Calicut		27,580	10,050 (36.44)	17,530 (63.56)
4. Dainik Tribune (Hindi) Chandigarh		30,642	24,820 (81.00)	5,822 (19.00)
5. Dinamani (Tamil) Madras		67,300	22,633 (33.63)	44,667 (66.37)
6. Janasatta (Gujarati) Ahmedabad		24,399	20,824 (85.35)	3,575 (14.65)
7. Malayala Manorama Kottayam	(Malayalam)	5,39,879	4,31,903 (80.00)	1,07,976 (20.00)
8. Nai Dunia (Hindi) Indore		1,23,309	1,11,284 (90.25)	12,025 (9.75)
9. Punjabi Tribune (Punjabi) Chandigarh		40,396	31,527 (78.04)	8,869 (21.96)
10. Tribune (English) Chandigarh		1,65,753	1,40,890 (85.00)	24,863 (15.00)
11. Yugadharma (Hindi) Nagpur, Jabalpur and Jaipur		9,050	3,851 (42.55)	5,199 (57.45)
TOTAL :		10,77,544	8,37,488 (77.72)	2,40,056 (22.28)

\*For defining urban and rural areas the dailies were requested to go by the criteria adopted for the 1971 Census which defined urban areas as follows :—

- All places with a municipality, corporation, cantonment or notified town areas;
- All other places which satisfied the criteria of :
  - a minimum population of 5,000;
  - at least 75 per cent of the male working population being non-agricultural; and
  - a density of population of at least 400 per square Killometre.

\*It should be kept in mind that the actual availability of newspapers may be lower as the analysis is based on circulation figures of newspapers given in the annual reports of the Press Registrar, which in many cases are exaggerated.

37. The above figures highlight the paradox that the urban-rural reach of daily newspapers is in inverse proportion to proportion to the urban-rural distribution of the country's population. The number of households in the country is approximately 12.5 crores and the circulation of daily newspapers in 1979 was 1.32 crores. Considering that several households secure more than one daily newspaper, it will be seen that there is only one copy of a daily newspaper for ten households. The distribution of the newspaper-receiving households is not uniform, the great majority of such households being concentrated in cities and towns.

### PHOTO JOURNALISM

38. Before turning to a survey separately of the growth in size and the diversification of subject-matter of daily newspapers and periodicals, it will be appropriate to take note of two modes of news coverage and comment in which both dailies and periodicals have made notable progress over the last three decades, namely pictorial coverage of news and the use of the cartoon as commentary.

39. The concept of a photograph with a short write-up as an effective means of communication was virtually unknown to the Indian Press until the early forties, although photography had come to the country almost a century ago. Eminent photographers of the past approached photography more as an art form.

40. The *Illustrated Weekly of India* was a pioneer in using photography as a means of communication and encouraging photographers to take to pictorial journalism. According to the survey of newspaper contents of the daily Press in the first half of 1981 (Study No. 234), Tamil newspapers contained the highest percentage of items having photographic content (9.5 per cent) followed by Malayalam with 6.1 per cent, Punjabi with 5.7 per cent and Bengali with 5.2 per cent. Photographic news items accounted for 4.5 per cent of the total number of newspaper items in English papers and 3.6 per cent in Hindi papers. The percentage of the number of visual items was generally higher in the case of 'medium' and 'big' dailies as compared to smaller newspapers.

41. In spite of the improvement, however, photo journalism continues to suffer from certain shortcomings. It has been said (Study No. 208) that there is still a general lack of understanding of the scope of photographs in journalism among newspaper editors who have a bias for the verbal medium. According to the study, to most editors the photo department in a newspaper is a part of the production department rather than the editorial department. The import policy of the Government regarding photographic equipment is said to be oriented to the studio photographer and not the news photographer and as such it is difficult to import even some of the standard equipment necessary for news photography. Photo journalism does not in most cases form a part of journalism training. The established news photographers are, therefore, self-made.

42. However, photo journalism has made significant progress in recent years, particularly with the growth of news magazines. With the introduction of photo-composition and offset printing, the quality of reproduction of visuals in newspapers has improved. This may be expected to encourage newspapers to give greater importance to photographic coverage of events and issues.

### CARTOON JOURNALISM

43. A notable feature of the development of the Press over the last three decades is the emergence of the cartoon as succinct and eloquent commentary on current affairs. Several newspapers are looked forward to by their readers as much for the day's cartoon(s)—some newspapers carry a single-column 'pocket' cartoon besides the main one—as for the news, editorial analysis and other matter. Political goings-on offer much grist to the cartoonist's mill, and the leading political cartoonists in the country are among the best in the world, but the subject-matter also includes a wide range of social problems.

44. The Palekar Tribunal has placed cartoonists in the third tier of the editorial hierarchy, along with chief sub-editor, chief reporter, etc. However, the status and employments of cartoonists who are on the staff of, or contribute to, the leading newspapers is in fact much higher. It is being increasingly realised that the cartoon is much more than a funny picture and is, ideally, editorial comment in graphic language.

### DAILIES

45. The increase both in the number and circulation of dailies has been more marked in the last five years than in the previous 20 years (Appendix II-12).

46. The share of dailies in the total number and circulation of all newspapers has varied very little over the years. Between 1952 and 1979, their share in the total number of newspapers declined marginally by 0.9 per cent from 6.92 per cent to 6.83 per cent. In circulation, their share went up from 27.27 per cent in 1960 to 28.48 per cent in 1979.\*

#### Language-wise growth

47. Subject to the limitations of the data available to the Press Registrar (discussed earlier in paras 7 to 11), the annual reports show that Indian-language dailies have made greater gains in circulation than English language dailies. The share of the latter in the total circulation of dailies came down from 27.6 per cent in 1952 to 22.5 per cent in 1979. For the first time in 1979, Hindi with 23 per cent (as against 15 per cent in 1952) claimed a greater share of the circulation of dailies than English. Appendix II.13

\*A point to be borne in mind while studying the data given in the Press Registrar's report regarding the combined circulation of dailies and of periodicals is that a daily is published almost each day of the year in contrast to weeklies and journals or other periodicities and the combined circulation figures are *per issue* and do not refer to the total number of copies. In terms of the latter, the share of dailies (excluding bi- and tri-weeklies) would be about 83 per cent of the total number of copies of newspapers of different periodicities circulating in a year.



gives the language-wise pattern of the growth in the number and circulation of dailies from 1952 to 1979.

48. There were only two dailies in 1960 with a circulation of one lakh and above, and both were in English. In 1979, Indian languages accounted for 20 of the 30 dailies in this category. *Ananda Bazar Patrika*, the Bengali daily published from Calcutta, is the largest circulated single edition daily with 4,03,047 copies. Appendix II.14 gives the number of dailies with a circulation of 1,00,000 and above in different languages from 1960 to 1979.

49. Though Hindi has the largest share in the total circulation of dailies, the circulation of Hindi dailies per 1,000 of the linguistic population is very low. It stood at 12 copies in 1979 (though it is a big increase over the figure of 2.8 copies in 1952) in contrast to the circulation of 47.9 copies of Malayalam dailies per 1,000 linguistic population (Appendix II.9).

50. Among newspapers which are members of the Audit Bureau of Circulations English language dailies account for about 27.08 per cent of the combined circulation of dailies and the share of Hindi dailies is 15.93 per cent. Appendix II.15 gives the break-up of circulation of dailies, language-wise, according to A, B, C, certificates for the period 1st January to 30th June, 1981.

#### *Growth of big, medium and small dailies*

51. Our discussions with representatives of small and medium newspapers indicated that they had undertaken the publications either for propagating a cause, or to win influence and prestige in the community, or with the hope that it would be, whether on a full-time or a part-time basis, a gainful occupation.

52. From six in 1952, the number of dailies with a circulation of 50,000 or more increased to 61 in 1979. The combined circulation of dailies in this 'big' category has gone up by almost 17 times. The circulation of medium dailies (circulation between 15,000 and 50,000) has increased by about 250 per cent and of small dailies (circulation up to 15,000) by just about 100 per cent. Appendix II.16 brings out the relative growth of big, medium and small dailies over the years.

53. The techno-economic survey of small and medium newspapers carried out by the Commission's secretariat with the cooperation of the All-India Small and Medium Newspapers Association, which we have referred to earlier in para 9, brings out some of the reasons for the slow growth of small and medium newspapers. Highlights of the findings of the survey given in Appendix II.17 show that a large number of newspapers in the small and medium categories face financial difficulties. About one half of the small and medium dailies and periodicals covered in the survey had revenue from sale of copies of less than Rs. 1,250 a month. The position in respect of revenue from advertisements was no better.

#### *Page and price level*

54. There has been a substantial increase in the number of pages in large-circulation daily newspapers, as will be seen from Table VI. This is not reflected in the figures of the average page level of big, medium and small newspapers presented yearly by the Press Registrar, because they lump together the page level of a small number of large-circulation papers and the much larger number of smaller-circulation papers in the 'big' category. According to the figures given in the annual reports of the Press Registrar, the average number of pages per copy of daily newspapers of all three categories has declined from 5.45 in 1965 to 5.0 pages in 1979.

55. The price per copy has increased substantially over the years. According to the annual reports of the Press Registrar, the average price per copy of a daily went up from 8.6 paise in 1965 to 23.4 paise in 1979, *vide* Appendix II.18. Since 1979, there has been a further increase in both the number of pages and price per copy of the bigger dailies. The increase is more marked in the case of English language papers than Indian language dailies. In many cases, the price per copy is 60 paise or more. The selling price and average number of pages offered in a single issue of some leading English newspapers in the first half of November 1981 are given below :

TABLE VI  
*Selling price and page level of selected dailies—November 1981*

Name of the daily	Selling price (in paise)		Average No. of pages offered in a single issue
	Week days	Sundays	
Hindu, Madras	70	75	21.6
Hindustan Times, New Delhi	60	60	22.0
Indian Express, New Delhi	60	70	13.85
Times of India, New Delhi	60	70	18.27
Statesman, New Delhi	50	50	12.8
Deccan Herald, Bangalore	60	70	16.13

#### *Contents of news columns*

56. In order to secure a cross-section of newspaper contents, we entrusted the Operations Research Group, Baroda, with a survey of newspaper contents—both news/views and advertisements. The study covered 503 publications of which 234 were dailies, 181 weeklies, 22 fortnightlies and 66 monthlies. The 234 dailies covered in the survey accounted for nearly 70 per cent of the total circulation of all dailies. They were placed in the following categories according to their circulation :

Category	Circulation range	Number of dailies
Very big	Over 1,00,000	31
Big	50,000 to 1,00,000	22
Medium	15,000 to 50,000	77
Small	5,000 to 15,000	78
Very small	Less than 5,000	26

The number of dailies covered in different languages and the number of issues of the papers taken up for the survey are given in Appendix II-19. The survey covered a three-month period, 15th February to 15th May 1981. On an average, about 12 issues of dailies were actually analysed.

57. To find out the type of coverage provided by dailies in different languages, all editorial contents were grouped into the following six broad categories :

- (i) Political ;
- (ii) Economic development and Government ;
- (iii) Unrest, law and order and courts ;
- (iv) Sports ;
- (v) Entertainment and culture ; and
- (vi) Women, social and human interest.

58. It was found that Assamese dailies devoted the maximum—39.3 per cent—space to political items, perhaps because of the controversy in the State on the issue of foreign nationals. Tamil dailies also devoted a large amount of space—26.4 per cent—to such items. Political items occupied 19.5 per cent of the space in Hindi dailies and 17.8 per cent—the least for any language—in English dailies.

59. Items devoted to economic development and Government matters occupied 40.5 per cent space in Oriya dailies which was the maximum for any language. Hindi dailies devoted 29.0 per cent and English dailies 36.5 per cent space to such items. Assamese dailies devoted the least—19.6 per cent—space to such news.

60. In Sindhi dailies, news items on unrest, law and order and courts occupied 21.2 per cent of the space. Hindi dailies gave 17.5 per cent and English dailies 11.8 per cent space to such items.

61. English dailies devoted the maximum—9.9 per cent—space to sports, while Hindi dailies gave 6.0 per cent. Sindhi newspapers had the least amount—1.00 per cent—of space given to such items.

62. Gujarati dailies had the maximum—22.5 per cent—space devoted to items on entertainment and culture. The percentage was 18.4 for Hindi and 6.4 for English dailies. The least space—5.8 per cent—given to such items was in Oriya dailies.

63. Items of interest to women and on social and human interest matters occupied 13.4 per cent of the space in Sindhi dailies. Hindi dailies gave 5.6 per cent and English dailies 4.1 per cent space to such items. The least space—3.0 per cent—given to such items was in Assamese dailies. Appendix II.20 gives the per cent of space and items devoted to broad content categories in daily newspapers in different languages. In Appendix II.21 are reproduced the Tables giving detailed information on space devoted to different types of items in dailies in different circulation ranges and languages.

### *Space devoted to advertisements*

64. The First Press Commission had observed in 1954 that most papers at the time devoted 40 per cent or less space to advertisements and had recommended that this limit should be kept. But in the years since, the space given to advertisements has been growing, specially in the bigger papers. According to data given in the annual reports of the Press Registrar, there was no paper in 1965 which gave 60 per cent or more space to advertisements and there were only 10 papers which devoted 50 to 59 per cent space to advertisements. In 1979, there were seven dailies giving 60 per cent or more space to advertisements, while another 24 devoted 50 to 59 per cent space to advertisements. Appendix II.22 gives the distribution of papers according to the proportion of advertisement space over the years.

65. The dailies covered in the survey of newspaper contents, on an average, gave 39 per cent of the space to advertisements. The maximum—49 per cent—space given to advertisements was in English dailies and the least—23 per cent—in Sindhi dailies. The implications of the findings of the survey in respect of advertising space and cost are discussed in the section on the 'Role of Advertising Revenue' in the Chapter on the Press as an Industry.

### *Financial dailies*

66. When the First Press Commission reported in 1954 there was no daily devoted exclusively to economic or financial matters. A feature of the growth of daily newspapers in the past two decades is the emergence of financial dailies. The *Financial Express* and *Economic Times* started publication in 1961. They have been followed by *Business Standard* (1975) and a number of other daily newspapers of this type. Most of the financial dailies are in English but there are some in Indian languages also.

### *Trade union newspapers*

67. Problems and happenings relating to workers and trade unions do not receive adequate coverage in most newspapers intended for the general reader. Even dailies which are brought out by political parties oriented to the working class tend to devote the bulk of space to political matters. A notable development in this context is the emergence of a trade union daily, *Shramik Vichar*, in Pune during 1979. One of its major objectives is to highlight the problems of unorganised workers and agricultural labour.

## PERIODICALS

68. Periodicals account for more than 93 per cent of the total number of newspapers in the country. Their share in circulation has been more than 70 per cent in all the years since 1956, when comparable data for dailies and periodicals became available for the first time. It was 71.52 per cent in 1979.

69. As noted earlier, the number of weeklies increased from 1,189 in 1952 to 5,023 in 1979. Circulation of weeklies went up from 30.2 lakhs in

1956 to 129.24 lakhs in 1979, an increase of 327.94 per cent. Most weeklies belong to the category of news and current affairs.\* But it is a weekly in the category of literary and cultural magazines *Kumudam* (Tamil), Madras—which has claimed the highest circulation among weeklies since 1960 (Appendix II.23).

70. The number of fortnightlys has increased from 379 in 1952 to 2,180 in 1979. Their circulation has gone up from 7.85 lakhs in 1956 to 44.99 lakhs in 1979, an increase of 473.12 per cent (Appendix II.24).

71. Monthlies constitute the largest group among the periodicals. They also have the largest share of the circulation of periodicals. The number of monthly magazines has gone up from 1,658 in 1952 to 6,162 in 1979. Circulation went up from 34.79 lakhs in 1956 to 134.28 lakhs in 1979, an increase of 285.97 per cent. Appendices II.25 and II.26 indicate the growth in the number and circulation of monthlies and other periodicals since 1952.

#### *The magazine boom*

72. Overall, the increase in the number and circulation of periodicals has been more in the last five or six years than in the period up to 1975 as Appendix II.27 shows. The rapid growth in the period 1975 to 1979 holds good for circulation also. A note on this phenomenon of the 'magazine boom' is given in Appendix II.28. It is based on Study No. 232.

73. If we take readership into account, weeklies and other periodicals registered a higher rate of growth between 1970 and 1978 than dailies. The National Readership Surveys I and II show that while the readership of weeklies in urban areas increased by more than 88 per cent and of monthlies by nearly 76 per cent, dailies had a readership increase of less than 40 per cent over the eight-year period in the urban areas. Appendix II.29 indicates the growth in readership of newspapers of different periodicities as per NRS I & II.

#### *Language-wise growth*

74. Among the Indian languages, Malayalam has the maximum circulation of weeklies as well as of other periodicals per 1,000 of the linguistic population. It had 51.4 copies of weeklies and an equal number of copies of other periodicals circulating per 1,000 of the linguistic population in 1979. Kashmiri came at the bottom with hardly any circulation. Appendices II.30 and II.31 indicate the circulation of weeklies and other periodicals per 1,000 of the linguistic population in different languages.

#### *Growth of big, medium and small periodicals*

75. A number of periodicals with large circulations have emerged in recent years. In 1979, 113 periodi-

cals had a circulation of 50,000 or more. Fifty of them had a circulation of one lakh or more. While the combined circulation of big periodicals increased by more than five times in the last 20 years, the small and medium ones have just managed to double their circulation. The share of big periodicals in the total circulation of periodicals has gone up from 14.4 per cent in 1960 to 38.8 per cent in 1979. The share of medium periodicals has come down from 19.3 per cent to 17.1 per cent and of small periodicals from 66.3 per cent to 44.1 per cent over this period. The average circulation of big periodicals has increased substantially, while in the case of medium and small periodicals, there has been virtually no growth (details in Appendix II.32).

76. An impressive feature of the growth of periodicals is that in almost half the languages, no daily newspaper could match the circulation of the largest circulated periodical in that language. While many periodicals are territorially restricted in their circulation penetration, some have a wide spread in their circulation/readership across the country.

#### *News and current affairs journals*

77. Data on the circulation of periodicals content-wise became available from 1965. News and current affairs journals constitute the largest group. From 427 in 1952, their number increased to 5,862 in 1979. Their circulation went up from 50.38 lakhs in 1965 to 94.23 lakhs in 1979, an increase of 87.03 per cent. A feature of the growth of news and current affairs periodicals in recent years has been the emergence of a number of investigative journals. Especially since 1977, there has been a marked increase in the circulation of investigative journals. Appendix II.33 indicates the growth of journals dealing with news and current affairs since 1952.

#### *Opinion journals*

78. Opinion journals may be distinguished on the one hand from news magazines and, on the other, from journals of entertainment for leisure-time reading. Opinion journals are generally imbued with social concern and a sense of purpose.

79. Among the notable journals of opinion prior to independence were Ramanand Chatterji's *Modern Review* and Gandhiji's *Young India* and *Harijan*. A study undertaken by the Commission (Study No. 26) notes that journals of opinion tend to be associated with individuals and rarely survive the founders. For example *Harijan*, which was revived in 1946 after a gap of four years, could not outlive Mahatma Gandhi. Other examples of opinion journals include M.N. Roy's *Independent India*, J. B. Kripalani's *Vigil*, Khasa Subba Rau's *Swatantra*, Rajaji's *Swarajya*, Arthur Moore's *Thought* (Subsequently edited by Ram Singh), *Sadhana*, the Marathi weekly, Nikhil Chakravarty's *Mainstream*, Romesh Thapar's *Seminar*, *Economic Weekly* (now *Economic and Political Weekly*) founded by Sachin Chaudhuri, and Ganesh Shukla's *New Wave*. As the author of the study

\*The categorisation by contents is taken from the reports of the Press Registrar.

remarks : "Whether professional integrity and a passion for journalistic quality can be harmonised with managerial competence is perhaps the biggest internal question facing all newspapers, and in particular journals of opinion".

#### *Farm journals*

80. While 76.27 per cent of the country's population live in rural areas and are engaged in agriculture and allied occupations, there are very few farm journals to cater for their needs. Though the number of farm journals increased from 30 in 1952 to 345 in 1979, the growth in circulation has been far from satisfactory. Circulation went up from 3.55 lakhs in 1965 to only five lakhs in 1979. The number of copies of farm journals circulating per 1,000 of the rural literate population is only about 1.5. Appendix II.54 indicates the growth of farm journals since 1952.

81. A study done for the Commission (Study No. 116) says that a difficulty faced by the readers of farm journals is that they contain technical information in a language which is difficult to understand. According to the study, many non-Government farm journals cannot afford to carry original articles by experts; they lean heavily on official Press releases, hand-outs of agricultural universities and Press releases of manufacturers of farm equipment and other inputs. There is a dearth of taluk and district-level newsletters which can convey useful information of local relevance to farmers.

#### *Economic and financial journals*

82. While the number of journals on finance and economics, commerce and industry has increased from 46 in 1952 to 699 in 1979, their circulation went up by only 10.53 per cent from 6.74 lakhs to 7.45 lakhs. In the first five years of this period, the circulation actually went down by about nine per cent. Among Indian language journals dealing with finance and economics may be mentioned *Vyapar Udyog*, a Gujarati weekly which started coming out from Ahmedabad in 1970. Appendix II.35 brings out the growth of journals dealing with finance and economics, commerce and industry, since 1952.

#### *Science journals*

83. The growth of science journals has not been very encouraging, considering that in a developing country there is need for a wide diffusion of scientific knowledge. The number of science journals increased from 34 in 1952 to 222 in 1979. Circulation went up from 94,000 in 1952 to 3.82 lakhs in 1979, an increase of 306.38 per cent, which cannot be considered substantial in view of the small base. Appendix II.36 indicates the growth of science journals since 1952.

#### *Literary and cultural magazines*

84. Literary and cultural magazines with 2,488 titles constituted the second largest group among S/1 I&B/82—4

periodicals in 1979. Their number was only 243 in 1952. Circulation increased from 41.21 lakhs in 1965 to 87.21 lakhs in 1979, an increase of 112.90 per cent. It must be kept in mind, however, that the classification of 'literary and cultural' by the Press Registrar is rather broad: the bulk of these magazines, particularly the ones that have acquired large circulations, follow a formula of mixed contents appealing to different tastes in a bid to attract more and more readers. Appendix II.37 gives information on the number and circulation of 'literary and cultural journals' since 1952.

#### *Women's journals*

85. From 31 in 1952, the number of women's journals increased to only 85 in 1979. Circulation increased from 3.01 lakhs in 1965 to 7.75 lakhs in 1979. (Appendix II.38). A study done for the Commission (Study No. 125) says that most women's journals consistently seek to direct women's energies into a narrow channel and to define their concerns, preoccupations and aspirations within an arbitrarily imposed 'feminine' framework. The covers of women's magazines have a certain uniformity about them; each of them features a brightly dressed doll of a woman, baring some part of her body. Apart from women's looks and dresses, there is stress on development of women's mental faculties and behaviour in a way that they can fit into a male-dominated social relationship. The study says the impression created is that the outside world belongs to men and that the issues which arise there do not affect women except indirectly through the men related to them.

#### *Children's journals*

86. The number of children's journals increased from 59 in 1952 to 192 in 1979. Circulation went up from 9.10 lakhs in 1965 to 24.10 lakhs in 1979. (Appendix II.39). While most of the popular children's magazines confine themselves to providing entertainment in the form of light reading, some of them contain informative articles as well. But the number of such articles in an issue is not more than two or three.

87. A new trend in some magazines is the publication of news articles, covering a wide range of current events, sports and cultural happenings. A study done for the Commission (Study No. 62) says that a tendency to depict sex and violence in a bid to increase circulation is noticeable in some children's magazines. The study points out that there is scope for originality and creativity and by experimentation and research, editors and publishers of children's journals can produce a magazine that sells well and at the same time is of good quality.

#### *Sports journals*

88. Sports journals had a low rate of growth of circulation up to 1975; the growth rate shot up in the next four years. Between 1952 and 1979, the number of sports journals increased from 13 to 90.

Circulation increased from 67,000 to 90,000 between 1965 and 1975, an increase of only 34.32 per cent. But by 1979, circulation had increased to 4.46 lakhs, an increase of 565.67 per cent over the 1965 figure. Appendix II.40 indicates the growth in the number and circulation of sports journals since 1952.

#### Film journals

89. The number of film journals has increased from 103 in 1952 to 358 in 1979. However, the total circulation of film journals has gone up by only 28.26 per cent from 15.18 lakhs in 1965 to 19.47 lakhs in 1979. Appendix II.41 indicates the growth of film journals since 1952.

90. A study for the Commission (Study No. 43) says that the bane of many film journals is the lack of professional standards. Many of them are made up of gossip and scandal about the alleged peccadillos of film stars. In many cases, articles in such magazines are written by PR men in the pay of film producers

or staff (Study Nos. 17 and 18). At times, vicious attacks are mounted against selected film stars.

#### THE PRESS IN 1980

91. We could obtain a copy of the *Press in India* 1981 (not yet in print but given to us in manuscript by the Press Registrar), giving data for 1980, only towards the close of our work. A quick perusal shows that the number of dailies in all languages went up to 1,266 in 1980, 93 more than the figure for 1979. Circulation of dailies which gave information on their circulation figures to the Press Registrar was 147.77 lakhs in 1980, 15.48 lakhs more than in 1979.

92. The total number of periodicals in 1980 was 16,874 against 15,995 in the previous year. Circulation of periodicals, according to the figures compiled by the Press Registrar, was 361.44 lakhs in 1980 compared to 332.20 lakhs in 1979. The following Table gives the number and circulation of dailies and periodicals in different languages in 1980 :

TABLE VII  
Number and circulation of dailies and periodicals — language-wise — in 1980

Language	Number of dailies	Number of dailies for which circulation data are available	Number of periodicals	Number of periodicals for which circulation data are available	Circulation of dailies (in thousands)	Circulation of periodicals (in thousands)
1	2	3	4	5	6	7
Hindi . . . . .	335	249	4,551	1,946	3,718	9,991
English . . . . .	110	78	3,330	1,543	3,092	7,440
Malayalam . . . . .	96	53	623	260	1,423	2,537
Marathi . . . . .	131	93	916	427	1,235	1,661
Gujarati . . . . .	40	33	648	352	1,090	1,645
Tamil . . . . .	96	46	675	287	995	3,944
Bengali . . . . .	45	32	1,331	784	964	2,340
Urdu . . . . .	126	80	1,108	473	631	1,445
Kannada . . . . .	77	48	515	259	519	1,324
Telugu . . . . .	30	15	490	174	478	1,000
Punjabi . . . . .	23	14	361	162	231	715
Oriya . . . . .	9	7	231	104	151	300
Assamese . . . . .	4	4	60	25	102	149
Sindhi . . . . .	4	3	58	25	22	63
Sanskrit . . . . .	2	2	27	17	2	11
Kashmiri . . . . .	..	..	1	..	..	..
Others . . . . .	78	39	1,944	829	114	1,579
All Languages . . . . .	1,266	796	16,874	7,667	14,777	36,144

NOTE : The languages have been arranged in the order of their share in the total circulation of dailies.

### Decline in growth rate during 1980

93. A comparison of the circulation data for 1980 given above with the figures for the previous two years, 1979 and 1978, shows that while the trend of increase in circulation continues, there has been a decline in the annual growth rate in 1980 compared to 1979. In the case of dailies, circulation in 1980 was 7.93 per cent more than in 1979. This com-

pares to a growth rate of 16.21 per cent in 1979 and 5.2 per cent in 1978. In the case of periodicals, the growth rate in circulation was 10.60 per cent in 1978; it went up to 12.74 per cent in 1979 but declined to 8.80 per cent in 1980. The annual growth rates of circulation of dailies and periodicals in different languages from 1978 to 1981 are given in the following table :

TABLE VIII

*Annual growth rates in the circulation of dailies and periodicals 1978 to 1981*

Language	Increase/decrease in circulation					
	Dailies			Periodicals		
	1978 over 1977	1979 over 1978	1980 over 1979	1978 over 1977	1979 over 1978	1980 over 1979
1	2	3	4	5	6	7
English . . . . .	0.79	16.04	4.00	0.95	12.11	2.61
Hindi . . . . .	14.44	21.34	21.98	6.04	16.21	19.51
Assamese . . . . .	10.53	9.52	47.83	(—)7.48	10.10	44.66
Bengali . . . . .	11.17	6.36	15.31	27.62	19.77	17.77
Gujarati . . . . .	(—)1.14	21.40	4.27	6.41	18.20	8.08
Kannada . . . . .	9.97	(—)0.75	30.73	4.06	6.37	17.17
Kashmiri . . . . .	..	..	..	..	..	..
Malayalam . . . . .	(—)4.27	13.56	11.78	15.35	91.52	(—)7.21
Marathi . . . . .	2.92	18.56	(—)1.36	26.27	(—)7.33	29.46
Oriya . . . . .	..	3.15	15.27	34.09	9.04	58.73
Punjabi . . . . .	75.63	4.31	5.96	(—)0.62	14.26	33.40
Sanskrit . . . . .	..	..	..	33.33	8.33	(—)15.38
Sindhi . . . . .	(—)80.00	533.33	15.79	(—)2.17	44.44	(—)3.08
Tamil . . . . .	(—)7.40	12.95	21.34	26.46	20.54	(—)1.30
Telugu . . . . .	29.94	11.75	(—)1.44	10.65	13.31	(—)23.25
Urdu . . . . .	7.00	27.77	11.48	7.37	7.74	7.04
Others . . . . .	(—)8.45	30.77	4.78	1.80	2.79	20.01
All languages . . . . .	5.27	16.21	7.93	10.60	12.74	8.80

### *Fall in circulation during 1981*

94. To examine recent trends in circulation and their relationship to recent trends in the economic environment, the Commission's office undertook an analysis of the Audit Bureau of Circulations (ABC) certificates for the period July 1980 to June 1981. It was found that there was a decline in circulation in the period January—June 1981 compared to the previous six-month period in the case of dailies and periodicals covered by ABC certificates (Appendix IX.8).

### *Growth of the Press in different languages*

95. The growth rates of the Press in different languages given in Table VIII show that the Press in Hindi and other Indian languages has generally recorded a much larger increase in circulation than the English language Press. For example, in 1980, while the overall increase in the circulation of dailies was 7.93 per cent, it was only four per cent in the case of English language dailies. Periodicals in all languages increased their circulation by 8.80 per cent; English periodicals had a circulation increase of only 2.61 per cent.

96. Distribution of dailies in different languages over different States and Union Territories shows that Hindi has caught up with English in terms of all-India character. In 1980, Hindi dailies were coming out from 11 States and two Union Territories, compared to 16 States and three Union Territories from where English dailies were coming out. Urdu also, to a certain extent, had an all-India character with dailies in the language coming out from 10 States and one Union Territory. The following table shows the

number of States and Union Territories from where dailies in different languages are coming out :

TABLE IX  
*Dailies in different languages—Language-wise distribution*

Language	Number of States and Union Territories from where one or more dailies are coming out	
	State	Union Territory
1	2	3
English	16	3
Hindi	11	2
Urdu	10	1
Tamil	4	..
Punjabi	2	2
Bengali	3	..
Telugu	1	..
Marathi	2	1
Gujarati	2	..
Malayalam	2	..
Sindhi	2	..
Sanskrit	2	..
Assamese	1	..
Kannada	1	..
Oriya	1	..

सत्यमेव जयते

### III. ROLE OF THE PRESS

In recommending a socially responsible role for the Indian Press, the First Press Commission in its Report (1954) envisaged a continuation, in new circumstances, of a role which the nationalist section of the Press had played during the long years of the independence movement.

2. India's fight for independence had two unique features. One was its international dimension : the leaders of the freedom movement in India were concerned also for the liberation of people living under colonial or other oppressive regimes in other parts of the world. Secondly, the movement was not only directed against foreign rule, it was simultaneously a struggle for internal social reform and a campaign to affirm moral values. Both these features were reflected in the nationalist Press. Many leaders of the freedom movement were actively connected with newspapers and believed that the Press could play a vital role in the life of a nation.\*

3. The First Press Commission stressed in Chapter XIX of its report not only "the need for maintenance of professional standards with regard to accuracy, comprehensiveness and objectivity" but also "the objective towards which journalism should strive". The Commission observed : "In our view, it is only a clear perception of the objective which can give a meaning and significance to the vocation of journalism. The ultimate goal of Indian society has been very clearly defined in the directive principles embodied in the Constitution. This is to secure and protect a social order in which justice—social, economic and political—shall inform all the institutions of national life. The goal was more explicitly defined later, during 1976, when Parliament adopted the 42nd Constitution

\*At the launching of the Marathi journal *Kesari* in January 1881, Bal Gangadhar Tilak (1856—1920) wrote :

"There is no doubt that since the beginning of Imperial Rule, sychophancy has increased inordinately. This development is undesirable and harmful to the country's interests. Therefore the writing in this newspaper will be in accordance with the name given to it (*viz.* *Kesari* or the Lion). The continuous use of the journalist's pen has the same utility as the lights on the streets at night and the night watch by policemen. In England, people watch through the newspapers the functioning of authorities from even the Empress and the Prime Minister down to the lowest government official. The result is that no injustice can be normally concealed and thus, as is well known, the people there are happier than those in other European countries. We, therefore, intend to write about how government officials perform their functions, with complete impartiality and without fear."

Mahatma Gandhi (1869—1948) defined the duties of a newspaper thus in his *Autobiography* : "One of the objects of a newspaper is to understand the popular feeling and give expression to it; another is to arouse among the people certain desirable sentiments; and the third is fearlessly to expose popular defects."

Amendment which *inter alia* amended the Preamble to describe the Indian State as a "sovereign socialist secular democratic republic" (in place of "sovereign democratic republic").

#### CONSTITUTIONAL PROVISIONS AS GUIDELINES

4. The Preamble to the Constitution and the Directive Principles set out the kind of society which the country is seeking to achieve while the Fundamental Rights indicate the means—among them freedom of expression—of realising the goal. The Fundamental Duties enumerated in the Constitution in Article 51A\* apply no less to the Press than to the citizen. However, in commending these constitutional provisions as guidelines, it is not our intention to suggest a strait-jacket for the Press. The Constitution sets out the objectives before the country in very broad terms, and there should be full scope for the advocacy of different viewpoints.

5. In the absence of any continuous monitoring of the performance of the Press over the last quarter-century in various languages and different parts of the country (such as we recommend for the future in Chapter VII, on the "Role of the Press Council"). We will not venture to pronounce how adequately or otherwise the Press has lived up to the role recommended for it by the First Press Commission. To any observer, however, one feature of the Indian Press is conspicuous. It is the great diversity of opinion expressed in newspapers, a diversity that should be expected on the part of a free Press in a democratic country with a mixed economy operating alongside a growing public sector. There can be no single voice of the Press in a free society. It has to be a conversation involving many voices, reflecting the needs and interests of different sections of society. Variety of ownership and opinion is the test of a free Press.

6. The functions of the Press and other communication media, it has been said, are to inform, educate and entertain the public. While the primary function of the Press is to provide comprehensive and objective information on all aspects of the country's social, economic, political and cultural life, it has also an educative and mobilising role. Before independence, the nationalist Press had played an adversary role in relation to the then Government. After independence, and in the context of the tasks of nation-building, the Press had to reassess its role *vis-a-vis* the Government which had ceased to be alien.

\*Inserted by an amendment of the Constitution during 1976.



7. To the question whether the role of the Press in a developing and democratic society should be that of an adversary or an ally of the Government, our short answer is 'neither'. To be a mindless adversary or an unquestioning ally would be to abdicate judgement. A free Press should be, in our view, a constructive critic.

#### *Development : the Indian path*

8. Development is widely understood as being synonymous with industrial development. Over the last two centuries, industrial development has been achieved by various countries under two major models. One is the capitalist free enterprise of the developed countries of the West where democracy was a slow growth and attained fulness only long after the industrial revolution had made those countries rich. The other model is of the single-party, centrally planned economies of the Communist countries which have achieved rapid development. India, on attaining independence, could have opted for either of these models. But the leaders of free India rejected both the models. They chose instead the third path of democracy and socialism which had never before been tried by a poor country.

9. The literature on democracy and the role of the Press therein is extensive and spans more than two centuries. The literature on development is also extensive. That is not the case as regards the role of the Press or other means of communication in relation to development. Specifically on the role of the Press in a developing and democratic society, which is the first of our Terms of Reference, the literature is scanty. It entails consideration of the interaction of democracy and development, and of newspapers as voices in the conversation of a free society. The Press can be expected to play a helpful role in accelerating the development process—not least through exposure and criticism of the slow pace of development or distortion of development schemes—only if there is a widespread conviction, in the first place, that democracy and development are compatible. Implicit in the conviction that development is possible and desirable within a democratic framework is a rejection of the notion that freedom of the Press is a luxury of the well-to-do which has little relevance for—or which actually impedes—improvement in the material standards and quality of life of the masses.

10. However, the Press in a country should be widely accessible to the people if it is to reflect their aspirations and problems. The Indian Press is free, but does not have a wide enough reach. It has an urban and middle-class base which limits its contribution towards making the development process more widely participatory. This is for the reason that literacy in India is overwhelmingly urban. The over-all adult literacy rate of 33.32 per cent at the 1971 Census comprised an urban literacy rate of 60.36 per cent and a rural adult literacy rate of 27.12 per cent. Purchasing power is also concentrated in urban areas. The circulation of the Indian Press is therefore largely

confined to the 2,600 odd towns and cities. It reaches only a small minority, comprising the better-off, among the 76 per cent of the country's population who live in more than 576,000 villages. Certain limitations are imposed inevitably by the sociological profile of Indian publishers, editors and other journalists, as well as of the newspaper readership.

11. It is to the credit of the Indian Press that, despite its predominantly urban and middle class moorings, it has evinced interest in the problems of farmers, agricultural workers, artisans, tribal groups and other sections of the rural population. Though, judged by readership or by ownership, it is not necessary for most of our newspapers to highlight the issues of poverty, the Press has made a major contribution by reminding readers of those who live below the poverty line and giving the ruling middle and upper classes a feeling of guilt. Many newspapers have, from time to time, drawn attention to such matters concerning the weakest sections of society as non-enforcement of minimum wages and the failure to revise them to keep pace with the fall in the purchasing power of the rupee; the persistence of bonded labour despite its abolition by law or its emergence in a new guise as contract labour; the generation of black money and its use, frequently entailing the involvement of corrupt officials and politicians, etc. Such creditable instances deserve wide emulation.

#### DEMOCRATISING COMMUNICATION : INDIAN LANGUAGE PRESS

12. It is through a widening of the base of newspaper readership that we envisage an even more significant role for the Press in the coming decades than the role, creditable by and large, which it has played in the three decades since the coming into being of our democratic republic. A germinal idea advocated in the Report of the International Commission for the Study of Communication Problems (Mac Bride Commission), which was established by the Director General of UNESCO in 1977 and whose report\* was published in 1980, is that "democratization of communication within and between countries" should be promoted. Obviously, a democratizing role can be played by newspapers in a country only if they come out in the languages spoken and read by the great majority of people.

13. Daily newspapers and periodicals published in English have hitherto commanded a degree of attention which is out of all proportion to their share in the total circulation. This happens not only in Delhi where the bulk of the business of Parliament and the Union administration is carried on in English, but also in the State capitals, though to a lesser degree. It is, however, the Indian-language Press which is becoming increasingly relevant to the bulk of our people with the growing use of Indian languages as the media of education. Apart from this trend which will continue, the relevance of and demand for

\*"Many Voices, One World : Communication and Society —Today and Tomorrow", UNESCO, 1980.

Indian-language newspapers will be enhanced to the extent that they acquire a development orientation which we commend in an ensuing section of this Chapter. Therefore, it is the Press in Indian languages, more than the English-language Press, that can help in democratizing communication.

14. The crucial role that will have to be played by the Indian-language Press in the coming years is highlighted by the steadily increasing proportion of members of the State legislatures and Parliament who rely entirely on newspapers in the Indian languages for news and analysis of events at home and abroad. It is for this reason that we make a number of recommendations for improving the financial, technological and professional capability of the Indian-language Press in the Chapter on "Official Agencies and Press" (in which we suggest the formation of a Newspaper Development Commission), the Chapter on "News Flow" (where we suggest measures for enabling the delivery on teleprinter of news services of high quality in the Indian languages) and in the Chapter on "Training" (in which we urge that special attention should be paid to the training of large numbers of young men and women for entering Indian-language journalism).

#### SMALL AND MEDIUM NEWSPAPERS

15. Among the Indian language newspapers, small and medium newspapers serving a district or a group of districts can play a more direct role in the process of democratizing communication than newspapers aiming at State-level or multi-State circulation. Newspapers of the latter category have made a notable contribution in keeping their readers informed not only about important events in all parts of India but also about significant developments in other countries. The average daily newspaper reader in India is probably better informed on world affairs than his counterpart in many advanced countries. However, locally published newspapers serving a district or group of districts might be in a better position to play a developmental role at the local level by highlighting the people's problems, and to promote wider participation in the democratic process through the institutions of Panchayati Raj.

16. Local information can pertain to a wide range of development subjects, from agriculture and agro-industries to local self-government. Whether a programme is for marginal farmers and agricultural labourers, for rural employment or for adult education, a locally published newspaper can guide the intended beneficiaries to the precise place and the person from whom help can be had. Similarly, a newspaper close to the grassroots is in the best position to bring to light any instances of unjust or improper exercise of authority at the official or political level in the area served by it. The publisher of a leading newspaper chain told us that it was as a follow-up of an initial disclosure made by a small newspaper that his papers were able to expose a major land deal suggestive of misuse of political position.

17. We were impressed by the point made by several witnesses with experience of publishing large and small daily newspapers that small newspapers can grow only if they make themselves useful to the local community by conveying a great deal of information of local relevance and interest, rather than by remaining as feeble limitations of State-level newspapers or those with multi-State circulation. Otherwise, these newspapers will continue to remain small, ineffective and financially unsound.

18. A local-interest newspaper need not necessarily be small in circulation. Town newspapers with large circulations are common in the developed countries. At the present stage of development in our country a district newspaper or a newspaper serving a group of districts with common cultural and economic features is likely to be successful. Local-interest newspapers can usefully supplement but cannot compete successfully with newspapers published from major centres of publication which attempt to provide adequate coverage of State, national and international news and aim at State-level or multi-State circulation.

19. A considerable number of small newspapers listed in the Annual Reports of the Press Registrar fail to meet a genuine local need, and, therefore, do not command a wide enough readership to sustain regular publication and attract advertising on the strength of their own standing among the readers. They come out only as and when the publisher manages to secure some advertisements from the State Information Department or district level authorities, or local courts or other source whom the publisher can induce or bring pressure on. Elsewhere in the Report (in the Chapters on "Official Agencies and the Press", on "News Flow" and the "Press as a Public Utility") we make a wide range of recommendations to protect small and medium newspapers from unfair competition and to provide assistance for acquiring printing machinery, securing teleprinter services and newsprint at reasonable price, etc. Our intention is to assist genuine publishers of small newspapers to make a useful contribution to the communities they serve, by providing information of relevance and interest to those communities, specially in the context of the various programmes under way for expanding productive employment and for meeting the needs of the weaker sections of society. We would like to emphasise that it is not our intention to encourage localism or scandal and blackmail—failings which are not confined to newspapers of any particular category of circulation. While providing information of interest and relevance to readers in the villages and small towns, the district-level newspaper should also keep them posted, even if not in detail, with significant national and international news in the fields of politics, science and technology, sports and culture.

20. To the extent that small and medium newspapers develop along the lines envisaged by us above, the disparity between India's large rural population and the small circulation and readership of newspapers in rural areas will be corrected. Precise figures of the present urban-rural distribution of newspaper

circulation and readership are not available. However, the first National Readership Survey conducted by the Operations Research Group in 1970 suggested that the exposure to newspapers in rural areas (only seven per cent of adults) was much lower than in urban areas (where 38 per cent of adults had exposure to the Press). The secretariat of the Commission addressed a number of newspapers, in various languages and in different parts of the country, enjoying circulations ranging from big to small, to elicit data from them on the extent of their urban and rural circulation. The rural circulation figures given by the eleven newspapers which responded (including newspapers in Indian languages and non-metropolitan newspapers of modest circulation), as noted in the previous Chapter, showed a very high proportion of circulation in urban centres in respect of eight out of the eleven. We are conscious that newspaper readership per copy is higher in rural areas compared to the urban. Even so, the rural reach of the Indian Press is so limited as to call for concern and attention.

21. An estimate of the likely widening of the base of newspaper readership over the next two decades is given in Appendix XII. 5. It is clear that the role of the Press in democratising the process of communication is bound up with the democratisation of opportunities of education and gainful employment so as to cover a larger proportion of women and of the rural population. The processes of communication and of development will thus reinforce each other.

### THE EDITOR AND ADVERTISEMENTS

22. The problem of managerial interference in editorial independence is discussed by us in the section on 'Internal Relations' of the Chapter on "The Press as a Public Utility". As part of this managerial hegemony, in most newspapers it has become the practice for the acceptance of advertisements and their display on various pages, including the front page, to be the sole responsibility of the advertisement manager or business manager. It is only in a few instances that we were told that the editor has and does exercise the right of veto if an advertisement is objectionable, either on grounds of good taste and propriety or on other grounds as in the case of political advertisements which might be derogatory to India or to other countries with whom the Indian Government has friendly relations. In most cases the editor has come to be responsible only for the non-advertisement columns. (News, as a wag has put it, is what they put between the advertisements). In some widely circulated newspapers which apply more space to advertisements than to news, analysis and comment, the editor has thus come to occupy a secondary place in determining the newspaper's contents.

23. This position is inconsistent with the proper role of the editor as the person with overall responsibility for what goes into a newspaper. Increasingly it is being recognised that commercial advertisements are information as much as social, economic or political information. What is more, advertisements shape public attitudes and ways of life at least as much as

other kinds of information and comment. We recommend that editors should insist on their right to have the final say in the acceptance or rejection of advertisements, specially those which border on or cross the line between decency and obscenity, legitimate claims for a product or service and the proffering of magical remedies.

24. There has been an increasing tendency on the part of advertising agencies, and of advertisers who directly place their material with newspapers, to exploit sex appeal. This is done both through visuals irrelevant to the product or service being advertised and through salacious writing. Deploing this tendency, the principal of a Women's College in Calcutta told us that the heavy use of sex appeal in advertisements had an unhealthy effect on the minds of students. We are of the view that the exploitation of the female form in commercial advertising promotes the notion of women as sex objects and runs contrary to the news items and articles which many newspapers carry in support of treating women as equals and respecting their personality as individuals endowed with as much human worth as males. It is a pity that all the rhetoric in the country during and since the observance of 1975 as International Women's Year has had so little effect on advertisers and advertising agencies, and for that matter on editors and publishers.

25. Many of the sexy advertisements should attract action under Section 292 of the Indian Penal Code which prohibits the publication of obscene matter and those concerning remedies under the Drugs and Magical Remedies Act of 1954. It is deplorable that local and State authorities have been as indifferent in this matter as they have been in the case of objectionable cinema posters depicting sex and violence. We recommend in Chapter VIII that the Press Council should examine complaints of violation of the codes of ethics governing advertising. However, the editor himself can stop the mischief at the source if he assumes responsibility, as he should for all the matter published in his newspaper including advertisements.

26. The editor's authority, in our view, should extend not only to the contents of the advertisements but also to the proportion of space devoted to them. We were told by the editor of a leading English daily that he insists on the availability, for the publication of news and views, of a certain number of columns per issue which he regards as the minimum required for the adequate presentation of local, state, national and international news and analysis thereof. This is as it should be.

27. The editor should also have the right to veto a particular positioning of advertisements that he might regard as undesirable, as for example on the editorial page or the front page.

### ASTROLOGICAL PREDICTIONS

28. With a few noteworthy exceptions, daily newspapers both in the Indian languages and English continue to carry astrological predictions despite the disapproval voiced in this behalf by the First Press

Commission. The Commission said (page 934) : "We wish to say nothing against astrology as such. We feel, however, that spread of the habit of consultation of and reliance upon astrological predictions, particularly of the nature and in the manner they are published at present, is certain to produce an unsettling effect on the minds of readers. We would describe the practice of publishing such predictions as undesirable. These predictions do not confine themselves to vague assurances of prosperity, or classification of days into lucky and unlucky ones for those born under particular signs of the zodiac. Sometimes, the predictions extend to political events of grave significance, to the future of the country and even to the likelihood of wars or other calamities."

29. The dangers inherent in "astrological predictions" concerning public figures was highlighted by an episode which figured in Parliament on 21st December 1981. We are of the view that editors of general-interest dailies and periodicals who believe in promoting a scientific temper among their readers and in combating superstition and fatalism, should discontinue the publication of astrological predictions. Readers who are interested in the subject of astrology can turn to specialised publications on the subject.

## FOREIGN RELATIONS AND DEFENCE

30. Subject to the limitations referred to in para 5 above, we turn now to a survey of the performance and problems of the Indian Press in the three major areas of foreign relations and defence; promoting social harmony and the maintenance of public order; and development journalism.

31. National security is a pre-requisite for safeguarding our democratic polity and for promoting orderly development. On every occasion when the country was involved in hostilities, not of its seeking, with other countries, the Press stood behind the Government and rallied public opinion for the defence effort, irrespective of differences on domestic policies.

32. However, we do not mean to say that the Press should invariably endorse the foreign and defence policies of governments for the time being in power, and treat them as sacred. A newspaper's perception of a particular problem of foreign relations may differ from that of the Government. We are of the view that the expression of such a difference should not be regarded as being anti-national.

33. Informed discussion of defence policy and options is rare in our Press. This is partly because of the excessive secrecy employed by the Government in defence matters. The public is denied even such information on the military capability of the country and her neighbours as can be looked up in authoritative foreign publications. Journalists as well as academicians and researchers in Indian universities do not evince sufficient interest in these matters. We are of the view that while the Press should exercise the utmost

responsibility and restraint in publishing or commenting on sensitive information of possible value to an unfriendly government in the event of hostilities, it ought to evince a greater degree of interest in defence matters.

## INTERNAL STABILITY

### (i) Communal Harmony

34. For development to take place, maintenance of internal stability is as important as safeguarding of national security. There can be no rule of law without order.

35. Threats to internal stability have arisen, in the years since Independence, from different sources : the outbreak of violent conflicts between religious, caste or regional groups which often reflect tensions arising from competition for limited economic opportunities; secessionist or insurrectionary movements in some parts of the country; and agitations on political or other issues by resort to unconstitutional methods.

### *Reporting of communal conflict*

36. The First Press Commission observed as follows in para 94 of its report with regard to attacks on communities and social groups in Press reports : "A great deal of the scurrilous writing that is noticeable in the Press is often directed against communities or groups. Events preceding and following the partition of the country have left so many people with a sense of grievance against one community or the other that the newspapers have found it a lucrative business to exploit these feelings. Such communal writings are not confined to the anti-Hindu or the anti-Muslim Press. There has been unfortunately quite a great deal of attacks on different sections within the various communities. We have not been able to find many instances where the sober and responsible Press have come forward to condemn such writings intended to vilify communities".

37. The Enquiry Committee on Small Newspapers observed in Chapter VI of its report that while a substantial section of the Press had behaved with responsibility there were some newspapers which indulged in objectionable writings calculated to incite communal passions and among these were not only small newspapers and periodicals but also other sections of the Press, including journals in English.

38. Newspaper coverage of four communal riots viz., riots in West Bengal in 1964, in Gujarat in 1969, in Aligarh in 1978 and in Jamshedpur in 1979, were examined by researchers engaged by us for the purpose. Their reports were analysed in a study entitled 'The Indian Press and Communal Riots' (Study No. 170) in which it was observed that in all the four cases the first day's sensationalised and communally slanted reporting of incidents in many Indian language papers was followed by an intensification of communal conflict over a wider area. This is not to suggest that all English-language newspapers were blameless.

39. The above instances are, happily, exceptions to the rule. The newspapers accounting for the greater part of circulation have shown commendable restraint and responsibility in reporting and commenting on communal incidents.

40. Harmony between people belonging to different social groups and religious faiths is desirable in itself; it is also a necessary pre-condition for development. The senseless and suicidal violence triggered by conflicts based on religion or sects, as distinct from the inevitable group tensions arising out of attempts to remove economic and social inequalities, is inimical to development. People belonging to the economically weakest strata of society such as those who subsist on wages derived from day-to-day physical labour are the worst sufferers when normal life is disrupted by violence or riots. The only beneficiaries of such incidents are the anti-social elements such as the hoodlums belonging to various communities who thrive on arson and loot. Newspapers' duty to the public lies not merely in reporting such incidents in a manner that does not aggravate tensions or trigger retaliatory actions, but also in lending a helping hand in the long-term task of eradicating irrational prejudices which lead even ordinarily reasonable persons to be carried away by mass frenzy worked up by fanatics.

#### *A.I.N.E.C.'s Code of Ethics*

41. In June 1968, the All-India Newspaper Editors' Conference drew up a Code of Ethics containing guidelines to be observed by the Press in reporting or commenting on communal incidents (reproduced in Appendix III.1) and circulated it among its members as well as Ministers and high officials of the Government of India and Chief Ministers and Directors of Information of the State Governments.

#### *Press Council's Guidelines*

42. In November 1968, the Press Council, acting on complaints received from several State Governments about objectionable writings in the Press, decided to frame certain guidelines for avoidance of "objectionable communal writing". In doing this, the Code of Ethics formulated by the All-India Newspapers Editors' Conference was also taken into account. The Press Council noted that the function of the Press in this area had to be viewed from two angles. One was what could be called the positive role of the Press, viz., of bringing together the diverse elements in the nation's political life, by emphasising those aspects of national life which would tend towards unifying the communities—not in the sense of abolishing distinctions or identities but by emphasising the common features of the diverse faiths and religions and advocating the subordination of sectional interests to the interests of national unity and integrity. The other angle—the one with which the Press Council was immediately concerned at that time—was the negative one, namely, "what the Press should not do". The guidelines framed by the Press Council in 1968 are reproduced in Appendix III.2.

43. We generally endorse the guidelines formulated by the Press Council. We are also in general agreement with the Code of Ethics drawn up by the All-India Newspaper Editors' Conference with one reservation, namely, that we cannot endorse without qualification the injunction that "names of communities should not be mentioned nor the terms 'majority' and 'minority' communities be ordinarily used in the course of reports" [paragraph 3(h) of the Code]. We are of the view that, on the outbreak of a communal disturbance, newspapers should refrain from sensational presentation of the news and from giving community-figures of those killed and injured. However, when the situation gets stabilised, there should be no hesitation in investigating the causes of the rioting and its consequences, with identification of the communities concerned. Communal tensions have economic, social and political causes. There have even been allegations of foreign money at work. These causes should be investigated and exposed.

44. We are of the view that suppression of truth would worsen rather than improve the atmosphere. However, it is difficult to lay down hard and fast rules, and a newspaper should, so to say, play it by the ear, in accordance with the circumstances of each case and with due sense of responsibility.

45. We recommend that there should be stricter enforcement of the provisions in the Indian Penal Code with regard to communal incitement. Unless the ground be that prosecution would give wider currency to offensive matter than the original publication, political or other considerations should not deter the enforcement of these provisions. In many cases there is delay, running into several years, in the disposal of cases against newspapers which provoke communal ill-feeling. While speedier trial of such cases is desirable, it depends on solutions that need to be found for the problem—which is outside our scope—of reducing the law's delays.

#### *Inter-caste tensions*

46. Responsible reporting and in-depth analysis are as important in respect of inter-caste tensions as in the case of communal conflicts. Caste has been banished from the decennial Indian Census but continues to be a potent factor in social and economic relations as well as in politics. Untouchability was abolished in terms of the Constitution which came into force in January 1950, and the Press has by and large exposed and campaigned against survivals of the practice of untouchability. However, there is the danger of unconscious prejudice. Even those Indians who profess religions other than Hinduism are to this day liable to be influenced, in varying degrees, by notions of the supposed superiority and inferiority of the castes of their forbears at the time of their conversion for Islam, Christianity, etc.

47. Following the inter-caste conflict over the issue of reservation of seats in post-graduate medical institutions in Gujarat in early 1981, the Editors'

Guild of India sent a Team consisting of S/Shri M. V. Desai, Inder Malhotra, K. Narendra and B. G. Verghese to inquire into complaints alleging bias and distortion in the coverage of the agitation by the Press in that State. The report of the Team is a well-documented exercise in self-criticism, by responsible journalists, of the less than responsible reporting, display and comment indulged in by a section of the Press. Although the editor of a leading Gujarati daily contested the accuracy of some of the statements in the report be acknowledged their sincerity and concern as well as the fact that English language newspapers in Gujarat did a better job of investigative reports on certain incidents during the agitation than the Gujarati Press. We think that the report was not as extensively reported and discussed in the country's Press as it deserved to be. It documents instances of biased reporting, suppression of news unfavourable to the caste-Hindu agitators against reservation, innuendoes against the Harijan agitators, and refusal to carry official versions of incidents thereby forcing the State Government to buy space in them to get published what they should have ordinarily carried in their news columns.

48. We endorse the suggestion contained in the report of the Team that there should be dialogue between the civil administration and local newspapers on norms and procedures for information flow, verification and correction during periods of tension and crisis, and that professional bodies of journalists should arrange for the exchange of experience in this regard in various parts of the country.

49. Conflicts involving caste-Hindus and Harijans often take place in rural areas, where they continue to live in separate localities in contrast to the mixing up and homogenisation of dress and other habits as between them in cities and towns.

50. One of the most gruesome instances of the super-imposition of caste dominance on economic exploitation was the burning alive of dozens of Harijans in their huts in village Kizhvelmani of Tamil Nadu in 1968. The victims were landless labourers seeking higher wages from their caste-Hindu landlords who brought in labour from outside to maintain the low level of wages. Significantly, Meenakshipuram in Tamil Nadu furnished during 1981 a dramatic instance of Harijans belonging to a village turning their backs on a social structure which excluded them, by opting for group conversion to Islam. It is a measure of the greater attention now being paid by the Press to in-depth reporting that the Meenakshipuram conversions have yielded a much larger body of reports based on investigation and in-depth analysis than the Kizhvelmani killings did thirteen years earlier. Newspaper reportage has helped in exposing the economic exploitation of the so-called low castes as well as the rising level of consciousness of rights on the part of Harijans.

51. Journalists have to be specially on guard against attempts by the authorities or by landlords to pass off agrarian revolts against exploitation as Naxalite or other politically-organised violence. An example of

biased briefing resulting in questionable reporting or headlines was the police action against alleged 'Naxalite' elements in certain blocks of Patna district in October 1981. The police operation was not sudden; it was known to be in the offing. One of the English newspapers of the capital carried on 30th October, 1981 a report headlined CRACKDOWN ON 'NAXALITES' IN PATNA IMMINENT which said *inter alia* that some of the villages were "seething with discontent owing to the continuing conflict between the landless and the landlords"; that "additional police parties were being sent to augment the police already deployed in the area after violence erupted in the Lohsuna village on 2nd September in the wake of the alleged rape of a maidservant by a landlord"; that the demands of the landless labourers comprising Harijans, Awadhiya Kurmis, Nonias and other backward castes included "implementation of statutorily fixed minimum wages for farm workers and distribution of ceiling-surplus land acquired by the Government; and that they were also insisting that landlords be prevented from employing 'outside labourers' for harvesting the standing paddy crop." A local political worker, not belonging to the ruling party, was quoted in the same report as having warned that the police exercise would degenerate into a 'planned genocide' against Harijans and other poor farm workers in the rural areas of Patna district.

52. Yet the reports of the police firing of 30th October, which were prominently displayed by the English-language newspapers in the capital on the front page were, in four out of the six, under headlines which implicitly accepted the claim by the authorities that all the persons killed were extremists. It is an example which illustrates the need for caution, on the part of both reporters and sub-editors, in the handling of reports pertaining to 'encounters'. We have noted with appreciation that, in recent years, some newspapers have attempted to get at the truth behind incidents of law and order in rural areas.

#### *Promoting the concept of brotherhood*

53. We are of the view that what the Press Council in 1968 described as the positive role of the Press—of bringing together the diverse elements in the nation's life by emphasising those aspects which tend towards unifying the communities—is as important as the avoidance of objectionable communal or casteist writing. A positive role calls for a sustained campaign to promote the concept of human brotherhood taught and exemplified by the founders and the saints of all religions.

54. Jawaharlal Nehru, who saw no conflict between the ethical values underlying religions and the science and technology on the basis of which Indian agriculture and industry were to be built up, commended to the people of India a new approach which would conduce to a larger religion of humanity. Thus, while laying the foundation stone of the irrigation dam on the river Krishna in 1955 at Nagarjunakonda, which had been a great centre of Buddhist learning in the second century B.C., he said, "This is the foundation of the temple of humanity of India, a symbol of the new



temples that we are building all over India." We noted in this connection an interesting discussion on the relationship of religion, science and development which took place at a conference of South Asian communication specialists and administrators organised on behalf of UNESCO in New Delhi in September 1980 by the Indian Institute of Mass Communication. The conference adopted a statement affirming "the importance of drawing on the humanistic teachings of great religious leaders to strengthen social harmony" and recognising that "the humanistic and ecological import of modern science is in harmony with the holistic inspiration of the great religious leaders, and should be communicated widely."\*

55. However, superstitious beliefs which are unrelated to the essence of religions and are inimical to physical and social health must be relentlessly exposed and fought. The Press can play a major role both in opposing obscurantists of every religion and in drawing attention to the humanist teachings of saints of every religion.

#### (ii) *Ethical Values and Social Health*

56. To recall and keep alive the ethical values taught by various religions would be particularly useful in the face of the prevailing amoral pursuit of consumerism leading to economic and social crime.

57. In recent years, there has been a spurt in crime and violence, including sexual assaults on women, not only in the rapidly growing urban centres but also in the countryside. Problems of social health which used to be associated with affluent countries are being shared increasingly by countries where the process of development has been accompanied by increasing urbanisation, commercialisation of the media, and a loosening of the old restraints associated with religious beliefs. Whether the source is religion or the humanism of a non-theological ideology like socialism, it is clear that every society needs a value system which will include self-restraint in the larger social interest. In our country there has been an increasingly large component of sexy magazines, and of sex-oriented advertisements and features, over the period since the First Press Commission reported. The glossy magazines and the glossiest of advertisements in the Press—of jeans and soft drinks, cigarettes and cosmetics, air travel or entertainment in five-star hotels (not a few of them in the public sector)—are directed at the newly affluent and their children. Some of the affluent—for example scientists, technologists, progressive farmers and innovative managers—are agents of development. Many others—like smugglers, blackmarketeers and corrupt persons in officialdom and public life—are unintended but very substantial beneficiaries of the development process. We are of the view that the Press must address itself to the question of what contribution it is making to the strengthening of the moral fabric of society, and discouraging the trend towards conspicuous and excessive consumption which a developing country can ill afford.

#### (iii) *Agitations and the Press*

58. Insurrection and secessionist activity have to be tackled by the security forces and the authorities responsible for maintaining law and order. However, if such illegitimate actions have their roots in economic neglect or exploitation, or apprehension of loss of cultural identity, the Press can play a useful role, on the one hand by bringing those causes to public notice and on the other by advocating adherence to lawful methods of ventilating grievances, and thus help in preventing violent conflicts and in defusing tense situations.

59. The country has been witnessing frequent incidents of violence and disruption of normal life by agitators trying to bring their grievances to public notice. Leaders of agitations have to eschew violent methods such as stoppage of trains and buses, burning of public property, or incitement to other forms of violence if development efforts are to succeed.

60. The responsibility of the Press in the maintenance of public order was underlined as early as in 1951 when the First Amendment of the Constitution was enacted by adding 'public order' to the grounds on which reasonable restrictions could be imposed by law on the exercise of the right to freedom of speech and expression. It is pertinent to recall what Shri C. Rajagopalachari, the then Home Minister said while introducing the Press (Objectionable Matter) Bill\* in Parliament: "Unless Parliament makes up its mind to examine the position, we shall have no safeguard whatsoever against abuse of freedom and the degeneration of freedom into licence for scurrility and incitement to chaos. If you do not control the stuff produced from the printing machine in modern times and if democracy should depend only on the goodwill of those who are inclined to rouse groups of people to mischievous intent, and we are asked to take physical action after overt acts and wait till they are indulged in, then let me tell you that we would want a considerable body of armed men and a fairly large mobile force in each district of India, if not sub-district. .... We would have to live so far as internal order is concerned from hand to mouth. That way lies Fascism."

61. Agitations leading to the disruption of normal life have taken place in recent years—as in Assam over the question of foreign nationals, in Maharashtra in support of the demand for higher prices for agricultural produce, and elsewhere on similar issues. Many newspapers find themselves in a dilemma while dealing with such events: on the one hand, grievances of even large sections of the public appear to gain Government's attention only when there is widespread agitation and issues are taken to the streets; and on the other, they do realise that a developing country cannot afford ventilation of grievances in such form. While the Press should bring to light and extend support to genuine public grievances, it should take a forthright stand against unconstitutional methods of agitation.

\*See article on 'The MacBride Report: An appraisal' in *Communicator*, October 1980.

\*The Press (Objectionable Matter) Act came into force in 1952 and lapsed in 1956.

62. A similar dilemma has been faced by the Press in regard to exposure of and comment on unfortunate incidents such as the blinding by the police of suspected criminals awaiting trial in Bihar during 1980. Certain sections of the public openly expressed support for the blindings inflicted on the under-trials, claiming that such rough justice was necessary in view of the delays in and difficulty of adducing sufficient proof for securing their conviction.

63. There is no easy solution to such problems. The Press will have to campaign for judicial reforms to speed up the legal process and continue to resolutely expose and condemn such brutal methods of dealing with suspected criminals.

### NEED FOR CHANGE IN NEWS VALUES

64. The role that the Press plays in a country is considerably influenced by the news values which prevail among journalists. If conflict is news but not the resolution of conflict, if the unusual and the bizarre is news rather than the normal, if news is what happened just a while ago (even if the event was not significant) and not a significant happening of a week or a month earlier which has only now come to light, the portrayal of reality in the Press is bound to be distorted.

65. The criticism of immediacy, conflict and sensation as ingredients of news is not of recent origin. As far back as in the 1940's, the Hutchins Commission of Inquiry sponsored by major capitalist publishing houses of the U.S.A. (and not a minority fringe of radicals) sounded a note of caution against anti-social news values : "The news is twisted by the emphasis of firstness, on the novel and sensational ; by the personal interests of owners ; and by pressure groups. Too much of the regular output of the Press consists of a miscellaneous succession of stories and images which have no relation to the typical lives of real people anywhere. Too often the result is meaninglessness, flatness, distortion, and the perpetuation of misunderstanding among widely scattered groups whose only contact is through these media."

### *Events as news, not processes*

67. The Hutchins Commission criticised the tendency of the Press to regard only events as news, and not social and economic processes : "The account of an isolated fact, however accurate in itself, may be misleading and, in effect, untrue. It is no longer enough to report the fact truthfully. It is now necessary to report the truth about the fact. The word 'news' has come to mean something different from important new information. To attract the maximum audience, the Press emphasizes the exceptional rather than the representative, the sensational rather than the significant. Many activities of the utmost social consequence lie below the surface of what are conventionally regarded as reportable incidents : more power machinery ; fewer men tending machines ; more hours of leisure ; more schooling per child ; decrease of intolerance ; successful negotiation of labour contracts ;

increase of participation in music through the schools, increase in the sale of books of biography and history. In most news media such matters are crowded out by stories of night-club murders, race riots, strike violence, and quarrels among public officials. The Commission does not object to the reporting of these incidents but to the preoccupation with them to such an extent that the citizen is not supplied the information and discussion he needs to discharge his responsibilities to the community."

68. It is not only the frankly commercial section of the Press in a developing country like India which has taken over the techniques of popular journalism in the West : tabloid form, stories of crime and aberrations, sensational headlines, and sensuous appeal in photographs and other illustrations with an unashamed exploitation of the female form. The influence of the news and pictorial values of the Western newspapers can sometimes be seen in the contents of even highly reputed daily newspapers and magazines. It arises from the prevalent news values among editors, news editors, sub-editors and reporters who are collectively referred to as 'gate keepers' of news because they determine what shall be published. It is not necessary to go to the extent of wanting to banish crime from the news columns to raise the question whether Ranga and Billa, the convicted murderers of the children of an Indian naval officer in Delhi, should have received such wide and prominent coverage as our newspapers chose to give them.

69. Equally questionable is the sense of "human interest" which led to the selection of the following items of foreign news and photographs recently by five English newspapers published in the capital : (i) A 22-cm story on 2nd December 1980 (AP report from Leeds, U.K.) under the headline "Girl escapes attack by 'ripper' ; (ii) 3-column photograph on 3rd December 1980, showing two policemen on their night patrol talking to a young woman out alone on a Leeds street near where the mass murderer, known as the Yorkshire Ripper, claimed his 13th victim ; (iii) whole of the first page of the weekly section of a newspaper of 14th June 1981 devoted to the first instalment of 'The Yorkshire Ripper Story' ; (iv) a 16-cm story (AP report from Los Angeles) on 25th June 1981 under the headline "Rapist on parole held again" ; and (v) Front-page, 9-cm story (UNI report from Nairobi) on 6th November 1981 about a Kenyan African who had 40 wives and wanted more.

### *Preoccupation with politicians*

70. Many foreign observers have commented on the pre-occupation of the Indian Press with politics and politicians. There would be nothing wrong if it were preoccupation with politics in the large, Aristotelian sense of concern with the building of a society which shall make the good life possible. The pre-occupation, however, is largely with the petty politics of conflict between and within political parties, and with the sayings and doings of Ministers and other prominent politicians. Even on an occasion like the World Religions Conference that was held in Delhi in



November 1981, the important thing for most of the newspapers was what the Union Home Minister said at the conference; what the religious leaders had to say about the oneness of religions was of secondary importance to them. However, India is not unique in this respect. The Press in many developing countries tends to focus attention on those in public life. In the *Press in Developing Countries*\*, Lloyd Sommerlad refers to the dominance of political news in Asian and African newspapers, and quotes an Information Ministry official in Kenya as saying: "There is no pop singer, no cricketer, no actor in East Africa who appeals to the people; the politician embodies the heroic qualities of all. He is the centre of news." Not many politicians share the modesty of President Julius Nyerere of Tanzania who is said to have told newspaper editors in his country not to highlight every speech of his on the front page but to ignore them unless he had said something new.

### THE TASK OF GATE-KEEPERS

71. The importance and difficulty of the task of the gate-keeper of news has been described thus by Shri Pran Chopra, writing in "News Values and Principles of Cross-cultural communication" (No. 85 in the series of Reports and Papers on Mass Communication published by UNESCO, 1980): "The journalist confronts innumerable events every hour of the day and handles innumerable messages about them. Out of the heap he picks a few by purely his own subjective judgement, and he puts them on a paper of whose ultimate destination he has no idea. His audience is varied, and largely unknown to him. And lately he has begun to care a little less about what his reader's preferences are and to care a little more about what he thinks they *should be*." In another contribution to the same publication, a Latin American analyst, Mr. Fernando Reyes Matta of Mexico, says: "News is defined by a specialized sector of society which, in the name of society evaluates, selects, orders, interprets and finally presents the facts processed in a given hierarchy. This specialized sector is composed of journalists, governmental information officials and media managers. If one considers information as a growing process of alternative education, how can one accept a conception of news which seeks the exceptional, anecdotal, negative, abnormal and impacting?"

#### Space and prominence given to development

73. The survey of newspaper contents which was conducted for the Commission (Study No. 234) brings out the proportion of space devoted, and prominence given, by dailies to news pertaining to development in such fields as health, family welfare, industry, science and technology, agriculture, education and public utilities. The daily newspapers covered in the Survey accounted for nearly 70 per cent of the total circulation of dailies in the country. It was found that the percentage of space devoted to development exceeded the space devoted to politics in newspapers in the following languages: English, Gujarati, Marathi and Oriya.

\*Atma Ram, 1969.

The space devoted to development exceeded the space devoted to conflict (agitations, crime, strikes and unrest), in newspapers in Assamese, Bengali, English, Kannada, Malayalam, Marathi, Oriya and Telugu. In the following languages, politics and conflict each claimed more space than development: Hindi, Punjabi, Sindhi, Tamil and Urdu. Table I gives the percentages of edited space (i.e. news and comments) applied to each subject-group language-wise.

TABLE I  
Allocation of edited space in dailies  
(all figures are in percentage)

Language of the daily newspaper	Politics	Conflict and Tensions	Total	Development
Assamese . . .	37.0	8.1	45.1	9.6
Bengali . . .	18.0	15.0	33.0	15.9
English . . .	13.4	10.3	23.7	17.4
Gujarati . . .	12.3	17.5	29.8	13.4
Hindi . . .	16.3	16.3	32.6	14.1
Kannada . . .	19.2	9.0	28.2	13.9
Malayalam . . .	22.7	16.1	38.8	17.7
Marathi . . .	17.1	11.1	28.2	18.6
Oriya . . .	18.6	12.9	31.5	27.3
Punjabi . . .	17.4	15.4	32.8	13.8
Sindhi . . .	18.5	17.1	35.6	15.6
Tamil . . .	25.5	16.1	41.6	12.0
Telugu . . .	22.5	9.1	31.6	20.0
Urdu . . .	20.2	17.4	37.6	8.7

74. The proportion of space now being applied by daily newspapers in many languages to development information is commendable, and we trust that the effort will be carried forward both in terms of the volume and quality of development reporting. However, the prominence with which different kinds of subjects are displayed, specially on the front page, leaves something to be desired. It will be seen from Table II that, in varying proportions, the front pages of newspapers in all languages are dominated by politics and by reports of conflict and tensions, and that development news gets the least space among the three subject groups.

TABLE II  
Percentage of front page space devoted to different themes in Daily Newspapers

Language	Development	Conflict and tensions	Politics
Assamese . . .	7.3	13.3	46.7
Bengali . . .	12.4	32.1	30.0
English . . .	12.2	21.3	31.1
Gujarati . . .	5.5	31.9	21.6
Hindi . . .	9.1	21.1	27.0
Kannada . . .	13.1	15.8	29.5
Malayalam . . .	8.8	25.6	45.0
Marathi . . .	12.0	20.2	30.6
Oriya . . .	14.1	13.5	33.6
Punjabi . . .	7.4	14.8	22.2
Sindhi . . .	6.8	18.2	40.0
Tamil . . .	7.3	20.7	31.5
Telugu . . .	17.2	10.6	32.2
Urdu . . .	4.8	25.2	28.4

75. We have suggested earlier that it is a defective sense of news values which results in reports of crime and conflict being played up. There is need to give news values a different orientation in the interest of social health and national development. He would urge the organisations of publishers, editors and journalists to pay attention, on a continuing basis, to the question of the values that should govern the selection and display of news items.

#### *Coverage of border areas*

76. While our newspapers cover extensively the conflict between and within political parties at the all-India and State levels, the healing of conflict or the successful working of coalitions does not receive much attention. For example, Meghalaya has pioneered an experiment in the rotation of Chief Ministership between partners of a coalition which has not been widely reported or commented on. Under this arrangement, Shri B. B. Lyngdoh, the first Chief Minister of the Government formed on 5th May 1979 by the United Meghalaya Democratic Forum, bowed out of office exactly two years later, to make way for Capt. Williamson Sangma as the new Chief Minister. An article circulated by INFA (*Tribune* of 26th May 1981) quoted Capt. Williamson Sangma as saying: "The last Assembly election in 1978 brought uncertainty and instability to the State. No party was returned with a clear majority. Meghalaya faced a political and moral crisis. All our time and energy was taken up in confrontation and agitations—and in manoeuvring for power. The administration suffered and so also development and the people at large." The coalition experiment on a novel basis was the answer. It deserved, in our view, wider notice in the country's Press than it received.

77. The above example illustrates not only the low news-value rating of developments of a positive nature, but also the insufficient attention paid to events and to processes of social and economic change in the remote and border areas of the country. We make recommendations elsewhere, in the Chapter on "Government and the Press", for facilitating the growth of newspapers in the border and interior areas where the development of communications has been inadequate—by assistance to news agencies, from the Newspaper Development Commission, for establishing teleprinter links; supply of newsprint at a reasonable price, etc. In addition to measures to encourage the growth of newspapers in the interior and border areas, it is in our view important that newspapers in the rest of the country should devote more space to news about the progress and problems of people living in such areas.

#### **DEVELOPMENT JOURNALISM**

78. From the beginning of the First Plan in the early 'fifties newspapers have carried articles publicising river valley schemes, fertilizer plants, the new steel townships and other such Plan projects. However, there has not been much reporting of the change that is taking place—or intended changes not taking place—

in the lives of people, specially of the majority who live in the countryside. It is only lately that the Indian Press has made a beginning with in-depth development reporting (to be distinguished from publicity) which should occupy pride of place in the Press of a developing country.

79. A quick study undertaken by the Commission in June-July 1981 to find out the extent of development reporting in regional language newspapers showed that some widely read dailies—particularly in Bengali, Kannada and Malayalam among Indian languages, besides English—have taken to reporting regularly on developmental topics and major socio-economic issues such as the conditions of tea garden labour, problems of drought and irrigation, 'dowry deaths' and the general ill-treatment of women, the plight of under-trial prisoners and the living conditions of urban slum dwellers. A Bengali daily which made its appearance in 1981 reproduces developmental reports of interest published by some of the district newspapers in the State, and is also taking care to follow up its initial reports. This is a welcome trend which should be encouraged and strengthened.

80. Efforts by the official media to project development suffer often from over-simplified presentation. Many of the development stories put out in India by the Press Information Bureau at the Centre, and by the Information Departments of the States, do not get widely published in the Press because they tend to paint a one-sided picture of change whereas development in real life is not a painless process but entails difficulties, setbacks and determined effort.

81. Development reporting should tell the story of what is going well as well as of what is going wrong. It should investigate into the reasons for success as well as for failure, at different places under different conditions, of various development programmes affecting the lives of common people such as the Small Farmers Development Agency, Marginal Farmers and Agricultural Labourers' Projects, National Adult Education Programme, National Rural Employment Programme, etc. Most of our newspapers merely carry official handouts giving statistics of milch cattle or poultry enabled to be brought under these schemes, the man-hours of work provided or the number of persons made literate. They do not enable the reader to 'meet' the extension workers who are the agents of change, or the beneficiaries of the programmes, and to hear what they have to say, in their own words, about their triumphs and difficulties.

82. The reporting of non-official initiatives in rural development, educational reforms, leprosy relief and other areas is even less extensive than in-depth reporting of the implementation of official development programmes. Our newspapers usually become aware of such non-official activities only after they have been honoured by a Jannalal Bajaj Foundation Award or Magsaysay Award. Surely, the free Press in a developing country should be more socially conscious and enterprising.

## INVESTIGATIVE REPORTING

83. The concept of 'investigative reporting' has rapidly gained recognition and momentum in recent years. Investigative reporting is not necessarily developmental reporting, since investigation could be in such areas as the personal lives of celebrities in the film world or high society, or of persons in public life, with a view to satisfying public curiosity rather than serving public interest. However, all development reporting is necessarily investigative. It cannot be based on hand-outs and briefings, official or non-official. It has to be based on field work and direct observation—preferably 'participant observation' which is employed increasingly in sociological studies.

84. We welcome the trend towards investigative reporting insofar as it is oriented to social and economic issues, for example bringing to light the exploitation of Harijans, tribals or contract labour and of efforts to 'conscientise'\* and organise their victims, the trading in human flesh, or delays and corruption in public administration.

85. The enterprising reporter who engages himself in investigative journalism should not give occasion for the criticism of lack of follow-up, which is a widespread failing in the Indian Press. It is not enough to report in depth a present problem; it is necessary to keep track of the further development of a situation that has been reported in context and in depth. 'Where are they now?' is a popular exercise in human-interest reporting concerning former luminaries of public life, literature and the arts. Readers would be equally interested to know 'What is it like now?', whether it is in Kizhvelmani or Bhiwandi or Moradabad, Chasnala or Morvi.

### Neglected areas

86. Economic journalism has made great strides during the last two decades both as part of the contents of general newspapers and through the emergence of specialised dailies and periodicals. There is a good deal of policy discussion in the Press, by experts, on such issues as the relative priority for the development of heavy industries and agriculture, large dams vs. development of local irrigation sources, problems of dry farming, the threat from trawler fishing to the employment of traditional fishermen and to ecology, etc. But the Press has yet to become a guide to the general reader for the explanation, in simple language, even of such frequently used expressions as national income and per capita income. Nor has much effort been made to probe the validity of these indices as indicators of the country's economic health or of the well being of citizens. Similarly, the reader frequently comes across news reports speaking of 'poverty line', without explanation of how the line is defined.

\*An expression used in translations, from the Portuguese, of *Pedagogy of the Oppressed* and other works of the Brazilian radical thinker Paulo Freire.

87. There is used for greater coverage of the attempts by self-employed workers such as fishermen, weavers and artisans to free themselves from exploitation by middle men through the formation of co-operatives, and by agricultural and industrial workers to secure a living wage or at least the implementation of laws prescribing minimum wage. In the bulk of our Press, trade unions figure in the news only when there is a strike or threat of a strike. The situation is much the same in this respect as what the third Royal Commission on the Press found in the U.K. It had a study made of the reporting of industrial relations in British newspapers to assess if there was any inadequacy or bias in the news reports and comments. The analysis showed that strikes were the largest category among industrial relations topics. It was found that the settlement of strikes, and negotiations, tended to go unreported. The Commission said in its Report that the large number of stories about disputes between management and work-force, or within the work-force or the union, "could result from a belief that conflict is interesting in itself and does not necessarily imply a bias against trade unions, but it does mean that they are portrayed largely as organisations involved in conflict. Trade unions are presented as bodies concerned with starting but not ending disputes. The selection of items ensures that trade unions are connected with bad news, and the recurring themes confirm this by the preponderance of references to discord and to hardship for the public at large."

88. Development reporting entails hard work. C. P. Scott, remembered for his editorship of the Manchester *Guardian*, once said: "Comment is free, but facts are sacred." One might add that facts are difficult to gather, and require the expenditure of energy and time. Development reporting is not for lazy journalists.

89. Apart from willingness to engage in field work which is essential for the investigation that must go into any worthwhile development reporting, it is necessary for the journalist to transcend the limited horizon of the social milieu of his upbringing and interest himself in studying the condition and needs of the great majority of our people who eke out their living in the villages.

90. We must acknowledge that there could be risks in development reporting, as when a reporter exposes local tyranny and corruption. We have in mind the tragic example of Chabirani Mohapatra of the Cuttack district of Orissa who was violated and done to death on 3rd October 1980 in the wake of exposure by her journalist husband of the linkage, at the block level, between propertied interests, corrupt officials and hoodlums masquerading as political workers. It is much easier for a visiting reporter to study the conditions in a village or block and expose any local tyranny and corruption, than for a resident journalist who has to live under daily threats to the life and honour of himself and members of his family. It is not for us to recommend facetiously that journalists with a vision of their role in social change and development should

boldly bring unsavoury facts to light and face the consequences which may include martyrdom. We do recommend, however, that the State Governments should see that investigative reporters do not come to harm. Public opinion will need to assert itself in this matter to prevent the pull of local vested interests and their corrupt collaborators from influencing the higher levels of the administration and the Government.

## TWO-STEP FLOW OF INFORMATION

91. We have noted earlier that the reach of the Press is largely limited to urban centres, and to the extent that newspaper copies circulate in rural areas it is almost entirely among the well-to-do. However, development information can reach the intended beneficiaries, most of whom are likely to be nonliterate, through what is known as the two-step flow, viz., the interaction of the literate with the non-literate.

92. Elected office-bearers of Panchayats and Panchayat Samitis and of co-operatives, and extension workers such as Gram Sevaks and Gram Sevikas, auxiliary nurse midwives, and personnel of the Marginal Farmers and Agricultural Labour projects generally read newspapers. They can, to the extent that they meet and talk to the under-privileged sections of the rural population, pass on relevant and useful information. Such information could be the credit facilities available for buying poultry and milch cattle, for buying the raw material for village crafts, the marketing facilities for milk or for handicrafts, and various types of assistance which are meant to be available from official agencies and the rural branches of nationalised banks to meet the needs of the weakest sections of the population. If it turns out that the assistance is in fact not available, whether for lack of funds or due to indifference on the part of the disbursing authorities, the exposure of such a state of affairs can contribute to improvement in the situation.

93. We have noted that some newspapers have started earmarking regular columns for ventilation of public grievances and publication of suggestions from readers. While the newspapers try to secure comments of the public authorities concerned on the grievances, these authorities do not respond at all in some cases or the response is not prompt. We recommend that public grievance columns should be more widely offered by newspapers and that the public authorities concerned should take note of the grievances published and take prompt action.

## ROLE IN RELATION TO OTHER MEDIA

94. The growth of newspaper circulation in India has not been adversely affected by the increase in radio ownership and listening. From a quarter million at the time of independence, the number of licensed radio receivers had risen to 20.67 million at the end of 1979. Likewise, the value of advertising in the Press has grown alongside the increase in commercial advertising over All India Radio. Television still being in the early stages of development in the country, Doordarshan is not yet a competitor or alternative to the Press either in news coverage or in advertisement pull. The experience of other countries suggests that as television acquires the dimensions of regional and national networks, it will eventually corner a big share of advertising. However, it may be noted that even in the affluent countries with large television networks, the Press retains its position as a major advertising medium accounting for between a third of total advertising expenditure as in Japan, France and the United States and nearly half in Britain and West Germany.

95. Unlike the position in many of the developed countries, radio and television in India are owned and operated by the Central Government. It is important that both the Government-owned media and the Press should be conscious of the need for fair and objective presentation of news.

#### IV. CONSTITUTION AND LAWS

##### (1) THE CONSTITUTIONAL GUARANTEE OF FREEDOM OF SPEECH AND EXPRESSION

###### *Freedom of Speech and Expression Includes Freedom of the Press*

Article 19(1)(a) does not speak of freedom of the Press. However, the Supreme Court in *Romesh Thapar v. The State of Madras*<sup>1</sup> held that the freedom of speech and expression includes freedom of propagation of ideas and that that freedom is ensured by the freedom of circulation. In *Brij Bhushan v. The State of Delhi*<sup>2</sup> the Court said that the imposition of pre-censorship on a journal is a restriction on the liberty of the Press which is an essential part of the right to freedom of speech and expression declared by Article 19(1)(a). In *Express Newspapers v. Union of India*<sup>3</sup> the Court held that freedom of the Press is an essential part of the right of freedom of speech and expression. The Court also observed in that case that the fundamental right to freedom of speech and expression enshrined in Article 19(1)(a) is based on the provisions of the First Amendment to the Constitution of the U.S.A. and it would, therefore, be legitimate and proper to refer to the decisions of the Supreme Court of the U.S.A. in order to appreciate the true nature, scope and extent of this right.

###### *The Position in U.S.A.—Freedom Not Restricted to Citizens Only*

2. The relevant portion of the First Amendment to the Constitution of U.S.A. says :

“Congress shall make no law.....  
abridging the freedom of speech, or of the Press.”

It is clear from the provision that the right to freedom of speech and the freedom of the Press is not confined to citizens. In other words, there is no restriction as to the donees of these freedoms. Originally the Supreme Court of U.S.A. seems to have taken the view that a corporation was not entitled to freedom of speech as that right was confined to natural persons. But the subsequent decisions of that Court would make it clear that ‘corporation’ being a ‘person’ would also be entitled to the right of freedom of speech and of the Press. The process by which the Supreme Court of U.S.A. appears to have come to this conclusion is this : As early as in 1898 the Court had indicated that ‘corporations’ were ‘persons’ within the meaning of the Due Process Clause of the Fourteenth Amendment<sup>4</sup> although in the following year it denied

them the status of ‘citizens’ under the Privileges and Immunities Clause. It would seem, therefore, to follow that since ‘corporations’ had been held to be ‘persons’ within the meaning of the Due Process Clause of the Fourteenth Amendment and since the Fourteenth Amendment protected ‘persons’ from State abridgment of free speech, a ‘corporation’s’ freedom of expression was protected under the Fourteenth Amendment Due Process Clause. The Courts in U.S.A. have granted such protection to ‘corporations’ but only in a selectively narrow area. In every decision which has recognised corporate freedom of expression, the corporation itself was engaged in the business of communication. Quite apart from this reasoning, many cases do tacitly recognise the right of a corporation to freedom of speech and of the Press by allowing publishing companies to sue as party plaintiffs for alleged infringement of this right. [See the question discussed in 48 Harvard Law Review (1935) 507-508 and Suffolk University Law Review, Vol. 7 (1972-73) 1117—1128].

###### *Freedom Available to Citizens only in India*

3. The proposition laid down in *Express Newspapers* that the decisions in U.S.A. can be usefully adopted for interpreting the provisions of Article 19(1)(a) may not be wholly right. In *M. S. M. Sharma v. Shri Krishna Sinha*<sup>4</sup> the Supreme Court said that a non-citizen running a newspaper is not entitled to the fundamental right of freedom of speech and expression and, therefore, cannot claim as his fundamental right the benefit of the liberty of the Press. The reason for it is that as the freedom of the Press is a derivative concept from the freedom of speech and expression conferred on the citizen by Article 19(1)(a), it must necessarily be subject to the limitation to which Article 19(1)(a) is subject viz., that the freedom of the Press is available only to citizens.

4. Even if a separate provision like the one in the First Amendment to the Constitution of the U.S.A. is inscribed in the chapter on Fundamental Rights in our Constitution, non-citizens cannot get that right for the reason that the freedom of speech and expression is conferred only upon the citizen and as the Supreme Court has held that the freedom of the Press is included in the concept of freedom of speech and expression, the freedom of the Press cannot get an enlarged content as compared to the freedom of speech and expression. In other words, if the freedom of the Press is a concept which takes its origin from Article 19(1)(a) conferring the freedom of speech and expression only on citizens, it would follow as a corollary that the freedom of the Press flowing from that concept can only enure to the benefit of citizens

(1) (1950) S.C.R. 594.

(2) (1950) S.C.R. 605.

(3) (1959) S.C.R. 12.

(4) *Smyth v. Amo*, 169 U.S. 46.

(5) (1959) Supp. 1 S.C.R. 806.

and to none else. When the freedom of speech and expression is restricted to citizens only, to say that the freedom of the Press which is derivative of that freedom extends to citizens and non-citizens like companies would be to expand the scope of the derivative freedom beyond that of the original freedom. No useful purpose will, therefore, be served by inserting a separate provision in the Constitution conferring freedom of the Press as that concept is already embodied in Article 19(1)(a) and by inserting such a provision no particular benefit can be conferred on a non-citizen like a company.

#### *Conflicting Decisions of the Supreme Court*

5. In *Bennett Coleman v. Union of India*<sup>6</sup> the majority held that although a company is not a citizen, the citizen-shareholders can enforce their right of free speech as the company is only a medium for expressing their views. The Court reasoned as follows :

"The rights of shareholders with regard to Article 19(1)(a) are projected and manifested by the newspapers owned and controlled by the shareholders through the medium of the corporation. In the present case, the individual rights of freedom of speech and expression of editors, directors and shareholders are all exercised through the newspapers through which they speak. The Press reaches the public through the newspapers. The shareholders speak through their editors. The fact that the companies are the petitioners does not prevent this Court from giving relief to the shareholders, editors, printers who have asked for protection of their fundamental rights by reason of the effect of the law and of the action upon their rights. The *locus standi* of the shareholder-petitioners is beyond challenge after the ruling of this Court in the *Bank Nationalisation* case."

6. With great respect, the above reasoning of the Court does not appear to be in consonance with the law laid down in the *Bank Nationalisation* case<sup>7</sup>. There the Court said that the jurisdiction of the Court to grant relief cannot be denied when by State action the rights of the individual shareholder are impaired, if that action impairs the rights of the Company as well ; according to the Court, the test in determining whether the shareholder's right is impaired is not formal : it is essentially qualitative; if the State action impairs the right of the shareholders as well as of the company, the Court will not, concentrating merely upon the technical operation of the action, deny itself jurisdiction to grant relief.

7. Before the majority in *Bennett Coleman* could say that the *Bank Nationalisation* case established the proposition which it considered to have established, it was necessary to inquire whether that case had

expressly or impliedly overruled the decisions in *State Trading Corporation v. Commercial Tax Officer*<sup>8</sup> and *Tata Engineering and Locomotive Co. Ltd. v. State of Bihar*<sup>9</sup> for, if the answer was in the negative, it must then be obvious that *Bank Nationalisation* cannot establish any proposition of law contrary to those cases and this is what the majority judgment in *Bennett Coleman* does.

8. *State Trading Corporation* was a case decided by a Bench of nine judges in which the majority held that nationality and citizenship were distinct and separate concepts, that the word 'citizen' in Part II of the Constitution and in Article 19 meant the same thing and that the provisions of Part II read with the provisions of the Citizenship Act were conclusive on the question that a corporation or a company could not be a citizen. Concurring with the majority, Hidayatullah, J., held that the precedents of the U.S. Supreme Court holding that corporations were citizens of the State of incorporation for purposes of federal jurisdiction could not be followed in India as the diversity of citizenship which had led to such rulings did not exist in India. He also said that as a corporation was a separate entity from its members, it was not possible to pierce the veil of incorporation to determine the citizenship of its members in order to give the corporation the benefit of Article 19. A corporation, therefore, could not be a citizen either by itself or as the aggregate of Indian citizens.

9. *Tata Engineering and Locomotive Co., Ltd.* was a case decided by a Bench of five judges in which it was unanimously held that Article 19 guaranteed rights to citizens as such and associations could not lay claim to the fundamental rights guaranteed by that Article solely on the basis of their being an aggregation of citizens. The Court held that once a company is formed, the business which it carries on is the business of the company and not of the citizens who get the company formed and that the rights of the incorporated body have to be judged on that footing and not on the assumption that they are the rights attributable to the business of individual citizens. A company cannot say that its shareholders should be allowed to file petitions on the ground that in substance, the company is nothing more than an association of the shareholders. The Court pointed out that if this contention was accepted, it would really mean that what the company could not achieve directly, it could achieve indirectly by relying upon the doctrine of lifting the veil.

10. It is noteworthy that in the *Bank Nationalisation* case Shah, J., definitely said that the above two cases had :

"no bearing on the questions arising in this petition. . . . The petitioner seeks in this case to challenge the infringement of his own rights and not of the banks of which he is a shareholder and a director and with which he has accounts—current and fixed deposit."

(6) (1973) 2 S.C.R. 757.

(7) *R. C. Cooper v. Union of India* (1970) 3 S.C.R. 530.

(8) (1964) 4 S.C.R. 99.

(9) (1964) 6 S.C.R. 885.



11. Since the decision of the House of Lords in *Salomon v. Salomon & Co.*<sup>10</sup> it has been held that a company is a separate entity from the shareholders and that rights of the company are distinct from those of the shareholders. It is only those rights which a company has that could be enforced by it. If the rights of the shareholders are infringed by a legislative or executive measure, then it is certainly open to the shareholders to impeach or impugn that measure. If it is said that when the right of the company as well as of the shareholders is infringed by a legislative measure or executive action, the shareholders will have the *locus standi* to impugn, it is also unexceptionable. But in the case of a company, as it has no fundamental right to freedom of speech, it is difficult to understand how a legislative measure affecting its freedom of speech can be impeached by a shareholder as affecting the company as well as the shareholders. In other words, it is not clear how a legislation affecting the freedom of speech of the company will affect the right of the shareholders if the company is regarded as a separate entity with no right to freedom of speech. It is also not correct to say that rights of shareholders are necessarily affected if the rights of the company are affected. Therefore, the shareholders cannot complain of injury to the company by invoking Article 19 which the company cannot invoke. To say that the individual freedom of speech and expression of editors and shareholders are all exercised through the newspapers through which they speak is not correct. The directors can enforce only the rights of the company. If the company has no right, as *ex hypothesi* it has none, no editor or shareholder will be entitled to challenge a legislative measure on the ground that it works an injury to the company.

12. As a consequence of the decision in *Salomon*, courts are in general precluded from treating a company as the alias, agent, trustee or a nominee of its members. If the company were treated as an agent of the shareholders with limited liability, the principals (the shareholders) would be responsible for indemnifying the company against the debts incurred by it—the very result which the limited liability of shareholders is designed to prevent. That apart, in *Tata Engineering and Locomotive Co. Ltd.* the Supreme Court rejected the contention that since every citizen has a right to carry on business, a number of citizens can exercise the right to form an association and carry on the business through the agency of a company. That contention is also unsound on the further ground that to treat every Indian company with limited liability as an agent of the shareholder would be to defeat the very purpose of incorporation with limited liability. The Supreme Court has refused to tear the corporate veil in the two cases viz., *State Trading Corporation* and *Tata Engineering and Locomotive Co. Ltd.* This, it would appear, would indicate that it is not open to the shareholders to contend that every injury caused by law to a company is in substance an injury to the citizen shareholders and, therefore, they could challenge the law or executive action as violative of Article 19.

13. Parliament when it enacted the Citizenship Act in 1955 did not think it expedient to confer the right of citizenship on corporations. In *R. M. D. Chamarbaugwalla v. Union*<sup>11</sup> the Supreme Court had indicated the difficulty arising out of the fact that corporations are not citizens.

#### *Indian Companies should be deemed to be citizens*

14. To sum up, a company is not a citizen and, therefore, cannot claim the fundamental rights enumerated under Article 19. Since many newspapers are published by companies, and a company is not entitled to the fundamental right under Article 19, being not a citizen, we recommend that all Indian companies engaged in the business of communication and whose shareholders are citizens should be deemed to be 'citizens' for the purpose of the relevant clauses of Article 19.

#### *The concept of freedom of the Press*

15. As pointed out by Bhagwati, J. in *Express Newspapers v. Union of India*,<sup>12</sup> the framers of our Constitution borrowed the concept of freedom of speech from the Constitution of the United States. Alexander Hamilton thought it impracticable to give any definition of the liberty of the Press under the U.S. Constitution. Zachariah Chafee goes a step further and says that the framers of the U.S. Constitution had no very clear idea as to what they meant by the freedom of speech or of the Press. The expression 'freedom of the Press' carries different meanings to different people. Individuals, whether professional journalists or not, assert their right to address the public through the medium of the Press. Some people stress the freedom of the editor to decide what shall be published in his paper. Some others emphasize the right of the owners to market their publication. To Justice Holmes, the main purpose of the freedom was to prevent all prior restraint on publication.

16. The theory is that in a democracy freedom of expression is indispensable as all men are entitled to participate in the process of formulation of common decisions. Indeed, freedom of expression is the first condition of liberty. It occupies a preferred position in the hierarchy of liberties giving succour and protection to other liberties. It has been truly said that it is the mother of all other liberties. The Press as a medium of communication is a modern phenomenon. It has immense power to advance or thwart the progress of civilization. Its freedom can be used to create a brave new world or to bring about universal catastrophe.

17. Freedom of speech presupposes that right conclusions are more likely to be gathered out of a multitude of tongues than through any kind of authoritative selection. It rests on the assumption that the widest possible dissemination of information from as many diverse and antagonistic sources as

11. (1957) S.C.R. 930.

12. (1959) S.C.R. 12.

10. (1897) A.C. 22.

possible is essential to the welfare of the public. It is the function of the Press to disseminate news from as many different sources and with as many different facts and colours as possible. A citizen is entirely dependent on the Press for the quality, proportion and extent of his news supply. In such a situation, the exclusive and continuous advocacy of one point of view through the medium of a newspaper which holds a monopolistic position is not conducive to the formation of healthy public opinion. If the newspaper industry is concentrated in a few hands, the chance of an idea antagonistic to the idea of the owners getting access to the market becomes very remote. But our constitutional law has been indifferent to the reality and implication of non-governmental restraint on exercise of freedom of speech by citizens. The indifference becomes critical when comparatively a few persons are in a position to determine not only the content of information but also its very availability. The assumption in a democratic set-up is that the freedom of the Press will produce a sufficiently diverse Press not only to satisfy the public interest by throwing up a broad spectrum of views but also to fulfil the individual interest by enabling virtually everyone with a distinctive opinion to find some place to express it.

18. The concept of a free market of ideas presupposes that every type of idea will get into the market. If free access is denied to any idea, to that extent the competition of ideas becomes limited. Our constitutional law has been solicitous in protecting an idea when once it comes into the market but has been singularly indifferent in creating opportunities for its expression. We are in the grip of a romantic theory of freedom of speech *viz.*, the belief that the market place is freely accessible. With the revolution in communication technology on the one hand and the newspapers' development of an antipathy to ideas which are opposed to its commercial interests on the other, the operation of a market place of ideas has ceased to exist. The constitutional issue generally is whether the expression already uttered should be given the shelter of Article 19(1)(a). But what of those ideas which are unacceptable to the media and which do not find access therein? The usual answer is that Article 19(1)(a) guarantees freedom of the owner to do as he chooses with his media. This answer stresses the view that a newspaper is emphatically the private property of the owner who sells a manufactured product at his risk; a newspaper owes nothing to the public, which grants it no franchise. Thus the constitutional imperative of free expression becomes the very instrument for repressing competitive ideas. The freedom guaranteed by Article 19(1)(a) must be reviewed in this light.

19. Freedom from prior restraint on publication, rather than freedom from subsequent punishment, was central to the 18th-century notion of liberty of the Press. This concern with suppression before dissemination was doubtless to assure that diverse kinds of ideas reached the public. The emphasis was that every free man had the undoubted right to lay what sentiments he pleased before the public, and to forbid this was to destroy the freedom of speech.

The avowed emphasis on free speech is still on the free man's right to lay what sentiment he pleases before the public.

#### *The Meaning of 'Abridgment' of Freedom of the Press*

20. There is a wrong notion that apart from the reasonable restrictions that could be imposed on the freedom of the Press under Article 19(2), there could be no other interference in the exercise of that freedom. What Article 13(2) forbids is the making of any law which has the effect of 'taking away' or 'abridging' any fundamental right. There can be no ambiguity or controversy when a right is completely 'taken away' and such action would be clearly hit by Article 13(2). In the case of abridgment, however, one has to distinguish between 'abridgment of speech' and 'abridgment of freedom of speech'. Meiklejohn put it rightly when he said that the First Amendment to the U.S. Constitution, though couched in most absolute terms, *viz.*, "the Congress shall make no law abridging freedom of speech or Press", did not forbid "abridging of speech" but that it did forbid 'abridging of freedom of speech'. Difficulty may arise in the application of the term 'abridge' where a law, rule or regulation is designed to accomplish an object other than abridgment of freedom of speech and the impact of such law, rule or regulation upon freedom of speech is secondary, incidental or indirect. In such cases the cardinal principle is that there is no abridgment of the freedom unless the 'content' of speech itself is regulated.

21. Economic and tax measures, legislation relating to social welfare and wages, factory laws, etc., may have some effect upon freedom of the Press when applied to persons or institutions engaged in various forms of communication. But where the burden placed on them is the same as that borne by other engaged in different forms of activity, it does not constitute abridgment of freedom of the Press. The use of such measures, however, to control the 'content' of expression would be clearly impermissible.

#### *'Regulation' as Distinct from 'Taking Away' or 'Abridgment' of the Freedom*

22. Article 13(2) does not forbid regulation of the exercise of freedom of speech. No doubt, the freedom enjoys the protection of Article 19(1)(a), but the manner of its exercise or its collateral aspect is beyond the scope of that sub-article. For example, blaring a speech through a microphone in the dead of the night disturbing the sleep of others or littering the streets with copies of the text of a speech could certainly be prohibited by law in spite of Articles 19(1)(a) and 13(2). Regulation does not hinder or curtail freedom of speech; in fact it can help promote freedom of speech. For freedom of speech to be meaningful in an assembly of persons, regulation of 'speech' is absolutely essential if it were not to degenerate into a cacophony of words. A meeting cannot even be opened unless, by common consent, 'speech' is abridged. If one man has the floor, no one else may interrupt him except as provided



by the rules. Freedom of speech does not mean that every individual has an inalienable right to speak whatever, whenever, wherever, however, he chooses. The commonsense of any reasonable society would deny the existence of any such unbridled right. Thus general regulatory statutes not intended to control the content of speech but incidentally limiting its unfettered exercise do not infringe Article 19(1)(a) when they are justified by valid governmental or societal interests.

23. The necessity for regulation becomes apparent if one turns to problems relating to meetings held in public places like streets, parks, etc. Largely because of the failure to make adequate provision for free and unhindered public discussion, courts are called upon to judge the constitutionality of local statutes which forbid or limit the holding of public meetings in public places. Such statutes come into effect when individuals or groups assemble in such a way as to interfere with other interests of the community or its members. The most striking and perplexing cases of this kind occur when meetings are held in public streets or in parks whose primary use is, in the opinion of the authorities, blocked or hindered to a degree demanding action. Now if such statutes are based upon official disapproval of the ideas to be presented at the meeting, they clearly violate the freedom guaranteed under Article 19(1)(a). But if no such abridgment of freedom is expressed or implied, regulation or prohibition on other grounds may be enacted and enforced. It must not be assumed that every governmental regulation of a public meeting is, under current conditions destructive of political freedom. Conditions of traffic on a city street are very different from those in the relatively open spaces of a country village. Parks may be needed for rest, quiet, and release from excitement and strain. Just as an individual, seeking to advocate some public policy may not do so, without consent, by interrupting a church service, or a classroom or a sickroom, or the Supreme Court, or by ringing a door bell and demanding to be heard, so meetings must conform to the necessities of the community with respect to time, place, circumstances, and manner of procedure.

24. In *Himat lal K. Shah v. Police Commissioner, Ahmedabad*<sup>13</sup> the Supreme Court had occasion to consider the question whether the public have a right to conduct a meeting on public streets and whether a law directing that permission should be obtained from the police authorities, who were given a blanket authority to refuse or allow the permission, was valid. The Court held that the law should be struck down as unconstitutional. The Court was of the view that it was open to the legislature to enact a measure for according permission for holding a meeting in public streets. But unconditional discretion as regards the very holding of the meeting should not have been left to the police officials. In other words, the discretion of the officer should be structured, confined and fettered. Any blanket power to deny permission is unconstitutional.

25. In *Heffron v. International Society for Krishna Consciousness Inc.*, 19 L. Ed. 2nd. 298, decided on 22nd June, 1981, the Supreme Court of U.S.A. held that the First Amendment to the U.S. Constitution does not guarantee the right to communicate one's views at all times and places or in any manner that may be desired. The Court said that activities such as distribution of religious literature, though protected by the First Amendment, are subject to reasonable regulation as to time, place and manner.<sup>14</sup>

26. The decision in *Himatlal* case is an authority for the proposition that speech in areas not covered by Article 19(2) can be regulated in order that the exercise of the fundamental freedom of speech may not conflict with other interests of the society. The reason why the Supreme Court held that such regulatory measures are good was that it would be impossible to reconcile the exercise of freedom of speech with traffic control. This regulation of speech is not covered by any of the provisions in Article 19(2). This regulation is not also visible to the eye from the language of Article 19(1)(a). The question then arises : How is it that the Court has evolved the theory of regulation ? The answer to the question is simple : because in a society, no freedom can be absolute. Even if it is said that every citizen has got the freedom of speech, it does not follow that the exercise of that freedom can be free from regulation.

#### *Public interest as criterion*

27. Journalism is not merely an industry; it is a public service and a profession. The American Commission on Freedom of the Press likened the newspaper industry to a public utility or a public carrier. As our First Press Commission observed, news and views which newspapers sell, serve not only an informative aspect but also an educational and a propagandist aspect. Newspapers influence opinion, conduct and action in political, social, economic and cultural fields. People have a vital interest in the accurate and fair presentation of news and views. The news and views which newspapers purvey carry with them a vital public interest that needs to be safeguarded. Whereas profit motive may operate in the public interest in the case of other industries, it may require regulation in the case of newspaper industry. Taking these factors together, there can be no doubt that a newspaper is essentially a public utility and whatever be the precise form of ownership of newspapers, the exercise of ownership rights has to be subject to some measure of restraint and regulation. Public interest is the criterion that should regulate this activity.

28. With its traditions, ethics and fellowship. Journalism has many aspects of a profession. As the First Royal Commission on the Press in U.K. said, there is widespread among Pressmen a sense of vocation and they feel the call somewhat as sailors feel the call of the sea. The Mac Bride Commission said that communication via different media and using all kinds of technologies is essentially a profession and the role

13. (1973) 1 S.C.C. 227.

14. American Bar Association Journal, September, 1981, pp. 1184—1198.

played by the professionals can be defined and certain parameters set for their activities. As Charles Board said, the freedom of the Press in its origin had nothing to do with truth; but this view no longer comports with its admitted social responsibility. Some provisions of our Press Council Act also refer to journalism as a profession.

29. Thus the Press has a social responsibility and accountability to the public. The theory that the freedom of the Press knows no restraint is gone. The traditional individualistic theory which has inspired the existing law and social attitude is insufficient to meet its problems. That theory emphasized only the freedom of one party, namely the issuer of the news, and completely ignored the other party, namely, the public. In the changed situation, the protection of the freedom of the issuer alone is not sufficient, the freedom of the consumer must also be protected.

30. The people are wholly dependent on the Press for the primary data of their political thinking. They are not passive readers of news. It is an entire community of varying minds which the Press must serve with its raw material for thought. Between the right of editors and publishers to express themselves, and the right of the public to be served with a substantial and honest basis of facts for judging public affairs, it is the latter which today tends to take precedence in importance. The American Commission on Freedom of the Press said :

“Since the consumer is no longer free to consume and can get what he requires through the existing Press, protection of the freedom of the issuer is no longer sufficient to protect automatically either the consumer or the Community. The general policy of *laissez faire* must be reconsidered.”

A realistic view of Article 19(1)(a) has to recognize that right to expression is somewhat thin if it can be exercised only at the sufferance of the managers of mass communication. While we recognise that the majority in a democracy may occasionally exercise its power to throttle opportunities for discussion, we do not seem to realise that non-governing minorities who control the machinery of communication can also throttle ideas before their birth.

31. Self-censorship by the Press is practically as great a menace to the freedom of expression as government censorship. The whole point of a free Press is that ideas deserving public hearing shall get a public hearing and the decision as to which ideas deserve that hearing shall not rest solely with the editors and owners. The test of a community's opportunity for free expression rests not so much on the abundance of alternative media but rather in an abundance of opportunities for securing expression in the media which have the largest impact. Creating opportunities for expression is as important as ensuring the right to express ideas without fear of governmental reprisal. What is essential is that everything worth saying shall

be said and the point of ultimate significance is the minds of the hearers. If there is no access to the big media, surely, the minds of the hearers cannot be effectively reached. The widest possible dissemination of information from as many diverse and antagonistic sources as could be ensured, alone will secure public welfare, and the constitutional guarantee of freedom of speech and expression rests on this postulate. Article 19(1)(a) does not sanction repression of that freedom by private interests including the Press.

32. The Press being a prime need of society, when its machinery is concentrated only in the hands of a few some of whom indulge in practices which are harmful to the health of society, the freedom of the Press is in danger as it is employed for a purpose for which it was never intended. In a system of adult suffrage, freedom of the Press becomes meaning-less when it is not known on whose behalf and for whose benefit this freedom is exercised. Today, one talks of the “newspaper industry”, but not of “the profession of journalism”, and questions like the relationship between the proprietor and the editor become very important in the present-day complex industrial relations when a newspaper is run more as an industry than as an instrument serving a public purpose and the real power rests with ownership.

#### *Access to the Press*

33. The changing nature of the communication process has made it imperative that law should concern itself with safeguarding public interest in the effective utilization of the media for the expression of diverse points of view. Confrontation of ideas—a topic of eloquent repetition in contemporary thought—demands some recognition of the right to be heard as a constitutional principle. There is need for providing access to the media and to forbid arbitrary denial of space for expression of divergent opinions. With the development of private restriction on free expression, the idea of a free market-place where ideas can compete on their merits has become just as unrealistic as the economic theory of perfect competition. The right of access is resisted by relentless invocation of the freedom of contract notion that a newspaper publisher is as free as any merchant to deal with whom he chooses. Everyone cannot afford publication of a newspaper under modern condition for giving expression to his ideas which may be of vital interest to the community at large. If the Press is considered a public utility, as we have endeavoured to show in this report, there is no reason why its services should not be available to citizens for exercise of their fundamental right of freedom of speech and expression on a non-discriminatory basis subject, of course, to availability of space and other relevant considerations. A revised, realistic view of Article 19(1)(a) should permit encouragement of expression by providing not only for its protection ‘after publication’ but also for its ‘emergence by publication’. The Press Council should be empowered to look into complaints of arbitrary and mala fide denial of access to the Press. Sarvashri Girilal Jain, Rajendra Mathur,

S. K. Mukherjea, H. K. Paranjape and Ishrat Ali Siddiqui are not in favour of this recommendation.

## (2) PRE-CENSORSHIP

34. The Constitution of U.S.A. provides freedom of the Press in absolute terms. There is no mention of any contingency in which censorship can be imposed. Even so, it has been judicially recognised that in times of war when the security of the nation is in danger previous restraint including censorship may constitutionally be imposed.

35. In England it is acknowledged that in times of war when the very existence of the State is in jeopardy the State has power to prevent the dissemination of such information and comments as would interfere with successful prosecution of the war. Thus, during the Second World War, Emergency Powers (Defence) Acts were passed in order to make such regulation possible and the regulations made under these Acts empowered the government to suppress a newspaper if it was persistently publishing matters calculated to foment opposition to the successful prosecution of the War, e.g., to cause unrest among the members of the defence forces. The restraints imposed by these regulations were withdrawn after the termination of the War. Neither the Parliament nor the governments have so far imposed any censorship of the Press in times of peace.

36. Under our Constitution, Article 19(2) makes no distinction between times of war and of peace. It authorises the State to impose reasonable restrictions for preserving the interests specified therein. These restrictions must, of course, be reasonable both substantively and procedurally. The decision of the Supreme Court in *Virendra v. State of Punjab*<sup>(15)</sup> is a clear authority for the proposition that pre-censorship even in times of peace is warranted in certain circumstances under Article 19(2). There can be no doubt that imposition of pre-censorship is a restriction on the liberty of the Press which is an essential part of the freedom of speech and expression under Article 19(1)(a). According to Blackstone: "The liberty of the Press consists in laying no previous restraint upon publications, and not in freedom from censure for criminal matter when published. Every free man has an undoubted right to lay what sentiments he pleases before the public; to forbid this is to destroy the freedom of the Press."<sup>(16)</sup> Maintaining law and order is the paramount duty of a State and in an urgent situation it might be necessary to take anticipatory action to avert a serious crisis arising out of public disorder. The Supreme Court recognised in *Virendra v. State of Punjab*, that it is certainly a serious encroachment on the valuable and cherished right of freedom of expression if a newspaper is prevented from publishing its views or the views of its corresponding relating to or concerning what might be a burning topic of the day. It also recognised that social interest ordinarily demands a free pronouncement

and interchange of views but it nevertheless said that circumstances may arise when the social interest in public order may require reasonable subordination of the social interest in free speech and expression.

37. The Assam Special Powers (Press) Act, 1960, which received the assent of the President on 12th January 1961 was modelled on the Punjab Act which was considered in *Virendra v. State of Punjab*. The Assam High Court has recently upheld the validity of the power imposing pre-censorship on the basis of the Supreme Court's ruling in that case. The Court upheld the validity of section 2(1) which provides that if the Governor is satisfied that a situation exists whereby the maintenance of communal harmony is threatened in the State and therefore, it is necessary to use the special powers under the Act for the purpose of preventing or combating any activity affecting or likely to affect public order, he may make a declaration to that effect. However, one of the judges held that the opinion of the Governor about the existence of the requisite situation which empowers him to make a declaration is justiciable. Section 2(2)(a) of the Act which empowers the State Government or its authorised officer to prohibit the printing or publication of any document in a newspaper or a periodical after a declaration under section 2(1) is made was also sustained by the Court but with some important limitations. The Court said that the censoring authority cannot ask a press to submit all material relating to any subject it may choose, but the subject-matter has necessarily to be relatable to communal disharmony and provided further that the communal disharmony affects or is likely to affect public order. The Court further held that prior hearing must be given before taking any step or action against a particular press and grounds of decision should also be stated. The Court struck down section 2(2)(c) requiring submission of the material for prior scrutiny of the censor because of a vital flaw, namely, the absence of an independent forum before which the Press can ask for redress in respect of an illegal or unjust order of the censoring authority. The Court reasoned that representation to the State government or any governmental authority would not be adequate because censorship is often invoked against government's own policies, programmes and action and in such a situation a representation or an appeal to the government would be nothing short of an appeal from Caesar to Caesar and as such not meaningful and effective at all.

38. We do not think it is proper to say that the power of censorship can be exercised only in circumstances which justify the invocation of the provisions relating to declaration of emergency under Article 352 of the Constitution. But at the same time, we think that the power should be invoked only in cases of extreme necessity in the national interest, when the situation cannot be saved without resort to this power. Dr. H. K. Paranjape, disagreeing with this view, holds that pre-censorship is justified only in times of emergency as defined in the Constitution. He is further of the view that if Article 19(2) of the Constitution permits censorship at other times, there should be a convention that the power should not be used.

(15) (1958) S.C.R. 308.

(16) Blackstone's Commentaries, Vol. IV, pp. 151-152.

### (3) RIGHT TO INFORMATION AND OFFICIAL SECRETS ACT

39. In a republican form of government like ours it is the great body of the people who govern the country through their elected representatives. In order that they may govern they must have the means of governing. A popular government without popular information or means of acquiring it is but a prologue to a farce. "A people who mean to be their governors must arm themselves with power which knowledge gives", said James Madison. Neither the right to elect periodically their representatives to the legislative bodies nor their accountability to the people at the end of their period of stewardship is of much avail unless the representatives are made responsive to public opinion when they decide public issues. The necessary condition of an enlightened public opinion is the existence of a well informed citizenry. To create a well-informed citizenry there must be wide-ranging discussion of public issues. As justice Brandeis said, public discussion is a public duty in a republican form of government and to fulfil this duty the people must have the necessary information, for they cannot carry on a discussion in the void. It is this duty which generates the political right to know.

40. Quite apart from the political aspect of the question, today there is hardly any phase in the life of a citizen which is not affected by the manifold activities of the government. In the past few decades, the pressures arising from population growth, technological development, improved communications, increased personal expectations, and intensification of values and life styles have combined to involve governments in an ever-increasing variety of functions and services for an ever-increasing variety of sectors of our society. In order to carry out these activities effectively government collects, aggregates, and analyzes large amounts of data relating to public problems. As a result, government has become perhaps the most important single institutional repository of information about our society and its political, economic, social and environmental problems. In some areas, the government is virtually the only significant source of information.

41. It is said that although we are under a republic we have adopted the Westminster model of the executive being responsible to parliament and therefore any information which the people want can be had through parliament. It is hardly a practical proposition to say that the citizens can obtain all the information they need through the parliament. Parliament has hardly the time to elicit all the required information from the executive. Quite apart from this, a citizen will have to brief some member of Parliament or wait upon him to obtain the information he wants. Even so, it may not be possible for him to get all the information which he may need.

42. When the source of much of the information is government and public agencies, the only means of acquiring information without which there cannot be a well informed citizenry is through freedom of access to

the materials in the possession of government and also to proceedings of government. The guarantee of freedom of speech can become effective only if people have a right of access to government proceedings affecting the public, compatible, of course, with grounds of national security and other paramount interests of the State.

43. Secrecy is inherent in bureaucracy as an administrative organisation. It arose out of functional necessity. The government as well as private organisations find it expedient to keep certain phases of their operation secret in the interest of maintaining competitive advantages over rival governments or administrative units. The secrecy which begins as a means to achieve organisational efficiency becomes an end in itself and is sought as a result of a conscious desire on the part of bureaucracy to insulate itself from effective outside control.

44. Open government is the basis of democracy; for, a democratic society is one in which the exercise of government power is undertaken not by an elite according to its own precept but by an executive accountable to the people itself for the goal of governmental action and the effectiveness of the performance of the government in its achievement. Since democratic government must be government acceptable to the collectivity of the people, it must be a political system in which the government is accountable to the people. Effective accountability depends upon knowing the information and options available to the decision-makers. Assessment of a government depends upon a full understanding of the context in which decisions are made.

45. As against the necessity for an open government in a republic we have to acknowledge the imperative need for keeping certain affairs of State as secret. National security, foreign affairs, cabinet proceedings, information relating to detection of crime, personal privacy, trade secrets and information volunteered by people in confidence are some of the items which a government will have to keep secret.

46. There is an inevitable tension between the democratic requirements of openness and the continuing need to keep certain matters secret. The Franks Committee said :

"This tension has been increasing in recent years. In part this is because the danger to the State have changed in character and become more complex, and have come to seem internal as well as external. The processes of government have become more sophisticated; the activities of a government increasingly affect all the affairs of the citizens. Its economic manoeuvres have come to be considered no less vital to the basis of the life of the community than the movement of its troops. Many new advances in science have both peacetime and military applications. Rapid changes in society, and the increased influence of centralised insti-

tutions, further complicate the issue. More and more information about the private affairs of citizens comes into the possession of the Government; there is a feeling that the Government should safeguard the confidences of the citizen almost as strictly as it guards information of use to an enemy."

#### *Need to Replace Section 5 of Official Secrets Act*

47. One of the chief obstacles to the free flow of legitimate information to the people in India is the existence of certain provisions in the Official Secrets Act, 1923. This Act was modelled on the British Act of 1920. The Act was amended by the amending Act 24 of 1967. The necessity for amending section 5 of the Act has been considered by several committees and commissions. The matter was examined by the Press Laws Enquiry Committee in 1948, the First Press Commission in 1954, the Law Commission in 1971 and by a Study Group comprising officials from the Cabinet Secretariat and Ministries of Home Affairs, Finance and Defence in 1977. The Law Commission recommended some changes with regard to punishment under the Act. The Press Laws Enquiry Committee and the Press Commission did not suggest any change in the Act as they thought that the Act as a whole was being administered in an eminently reasonable manner. But the first Press Commission was of the view that merely because a document was marked 'secret' or 'confidential' it should not attract the provisions of the Act if in the interest of public it should be published.

48. The question is not whether there were only a few prosecutions under section 5 but the possibility of its being used to curb the freedom of expression. The section undoubtedly has a chilling effect on the freedom of the Press. What is prohibited from communication under section 5 is :

"any secret official code or pass word or any sketch, plan, model, article, note, document or information which relates to or is used in a prohibited place or relates to anything in such a place, or which is likely to assist directly or indirectly an enemy or which relates to a matter the disclosure of which is likely to affect the sovereignty and integrity of India, the security of the State or friendly relations with foreign States or which has been made or obtained in contravention of this Act....".

and the prohibition is addressed to :

"any person having in his possession or control the thing prohibited."

For the purpose of the section it is immaterial whether the possession or control of the prohibited thing :

"has been entrusted in confidence to him by any person holding office under Government, or which he has obtained or to which he has

had access owing to his position as a person who holds or has held office under Government, or as a person who holds or has held a contract made on behalf of government, or as a person who is or has been employed under a person who holds or has held such an office or contract..."

What is punishable under the section is :

"Wilful communication of the prohibited thing to any person other than a person to whom it is authorised to be communicated;

using the information contained in it for the benefit of any foreign power or in any other manner prejudicial to the safety of the State;

retaining the prohibited thing in one's possession or control when one has no right to retain it or when it is contrary to one's duty to retain it or wilful failure to comply with all directions issued by lawful authority with regard to the return or disposal thereof; and

failure to take reasonable care of the prohibited thing or so conducting oneself as to endanger the safety of the prohibited thing."

The expression 'prohibited place' has been very widely defined. Any place belonging to or used for the purpose of government which is for the time being declared by the government by notification in the official gazette to be so becomes a 'prohibited place'.

49. The coverage of the section is very wide. The chief vice in the section is its catch-all character covering all kinds of secret official information whatever be the effect of disclosure. The official information covered by the section is extremely broad. It includes any official code, pass word, sketch, plan, model, article, note, document or information provided it is 'secret'. And the section itself does not define what is 'secret' or what is an official secret. In the absence of any definition in the Act, it is for the government to decide what it should treat as secret and what it should not. The section gives a blanket permission to the executive to prosecute any person disclosing official information or any person voluntarily receiving such information knowing or having reasonable grounds to believe that such information is being given to him in contravention of the Act. The only redeeming feature perhaps is that *mens rea* is a necessary ingredient of the offence under the Act.

50. There can be no doubt that the section as it stands can prevent any information about any affair of government being disclosed to the public and there is widespread public opinion in the country that the section has to be modified or repealed and substituted by a more liberal one.

51. The Franks Committee in England said that the scope of section 2 of the British Act which corresponds to section 5 of our Act is enormously wide : "Any law which impinges on the freedom of information in a democracy should be more tightly drawn." An English judge has said that the time had come to pension off section 2 of the British Act.

52. We have considered the question of amending the section but we think that it would make the section more cumbersome and difficult of understanding. We are of the opinion that it would be more appropriate to repeal the section and substitute it by other provisions suited to meet the paramount need of national security and other vital interests of the State as well as the right of the people to know the affairs of the State affecting them. It is essential, in our view, to restrict the operation of section 5 by prescribing the types of information which need protection from disclosure. These types or categories will necessarily be broad; but primarily it will be the task of the executive to determine whether a document falls under any of the specified categories. This will create an atmosphere in the bureaucracy that anything and everything which they consider to be secret would not gain the protection of the Act. In this respect we think that the provisions of Part II of the British Freedom of Information Bill<sup>(17)</sup> can serve as a model in framing the new provisions. Broadly, these provisions entitle the Minister to classify the documents which are to be treated as secret and the categories of documents include those relating to defence, security and intelligence as their disclosure would cause serious injury to the interests of the nation or endanger the life or safety of the citizen. Under these provisions, any document which, when taken together with any other document, would furnish such information, could also be classified as secret, even though its contents, if disclosed, on their own, would not have any such effect. Clause 24 of the Bill specified the descriptions of documents and information to which Part II applies. They are : documents relating to defence, security and intelligence classified as provided under clause 26; information relating to contents of any classified documents; other information relating to defence, security or intelligence, where it is certified to the Court by the Secretary of State that the document ought to have been classified; information likely to be helpful in the commission of offences, or in facilitating escape from legal custody, or the disclosure of which would be likely to impede prevention or detection of crime or apprehension of offenders; and information relating to any identifiable individual. It is not necessary that our draftsmen should restrict themselves to the subjects mentioned above. It will be open to them to include other appropriate subjects also which are necessary in the interests of maintaining the safety and security of the State. Without going further into the details, the scheme envisaged in Part II to take the place of the section proposed to be repealed appears to us to be reasonable and that the provisions of this part may be

adapted with appropriate modifications and changes. The other provisions in the Official Secrets Act may be carefully examined by an expert body to see which of them deserve modification and thereafter those provisions could also be incorporated in the new legislation proposed.

#### *Right to Information*

53. On the question of access to information to the citizen we have considered the legislations in force in several countries. Sweden is the first country to enact a provision for access to official information for citizens. The constitution of that country provides for it, U.S.A. also has an enactment giving its citizens the right of access to official information. Finland enacted a legislation in this behalf in 1951. Denmark has such a law since 1964 & Norway from 1970. The legislation in the Scandinavian countries is closely influenced by the Swedish law. Austria has some provision for access to information since 1973. A French legislation enacted in 1978 gives some measure of right of access leaving a wide discretion in the Government. The Netherlands legislation of 1978 lays emphasis on the aspect of disclosure of information rather than supply of documents. Among the Common Law countries we find that Australia has framed a bill which is pending consideration by Parliament; Canada is taking steps to enact a measure ensuring access to official information. It is only appropriate that we should have some provision enacted for the purpose.

54. The broad scheme of these legislative measures in other countries is to give the citizen access to official documents on the basis of an application. If the request is not granted, an order must be passed stating the reason and communicated to the person making the application. In all these legislations certain categories of documents like those relating to defence, foreign affairs, material protected by other statutes, trade secrets and other confidential business information, internal communications which are deliberative or containing advice, recommendations, proposals and the like are exempted. Information about individuals, investigatory records and records relating to examination of banks and other financial institutions by agencies that supervise them, etc., are also exempted and the citizen has no right of access to them. Each country has its own scheme of exemptions. In this connection we might mention that the following kinds of documents are exempt from public access under the U.S. Freedom of Information Act, 1966, as amended in 1974 :

- (1) (A) documents specifically authorised under criteria established by an Executive order to be kept secret in the interest of national defence or foreign policy and (B) are in fact properly classified pursuant to such Executive order;
- (2) documents related solely to the internal personnel rules and practices of an agency;
- (3) documents specifically exempted from disclosure by statute;

(17) The full text of the Bill is appended in Appendix N o. IV.1.



- (4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;
- (6) personal and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (7) investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel;
- (8) documents contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
- (9) geological and geophysical information and data, including maps, concerning wells.

The categories mentioned above are only illustrative and the exempted documents may include all those which are considered necessary to be kept away from public access due to reasons peculiar to a country's set-up and conditions.

55. In the matter of review there is difference in legal and constitutional practice in the various countries. The clear division is between the constitutional systems closely modelled on Westminster on the one hand, and on the other governments with parliamentary democracy but also with a more or less highly developed system of administrative law. The involvement of third parties, whether courts or quasi-judicial bodies, in assessing the merits of ministerial decisions on disclosure is held to present a weakening of their accountability to Parliament, with the complementary danger of politicising the courts or other quasi-judicial bodies. It is also feared that the courts are in no way competent to decide on the merits of a question whether a particular document will tend to endanger the defence or the foreign policy of the country as that is primarily a task of the executive.

56. In respect of the right of access to public documents also, we think that the provisions in Part I of the British Information Bill can be studied with profit and our legislation modelled on that part with appropriate changes. The suggestion in the Bill is that complaints about rejection of an application for official access will lie only to the Parliamentary Commissioner. We think that it is only proper that we adopt this method instead of entrusting the task to the courts which are already overburdened with other work. The draftsmen will have to think of a functionary corresponding to the Parliamentary Commissioner in U.K. for entrusting the work of review. Shri K. R. Ganesh is opposed to any legislation to confer the Right to Information in the present situation in which the country is faced, with internal and external threats to its stability and security.

#### (4) DISCLOSURE OF SOURCES OF INFORMATION

57. It was submitted by some newspaper organisations that, in the public interest, newspapers should not be forced to disclose their sources of information as otherwise much of the information would cease to flow and they would be disabled from doing their work.

58. In England, in some respects, newspapers were, for a while, treated as being in a special position with regard to disclosure of source of information. A practice grew up in libel cases, when courts would normally not compel a newspaper, prior to the trial of the action, to disclose the source of its information. It should be observed, however, that this rule applied at the interlocutory stage only and not at the trial.

59. Much information is given to the Press under a pledge of confidentiality and if that confidentiality is not preserved, some sources of that information would naturally dry up. The Press has exposed wrong doings which would otherwise have remained concealed. No doubt there is a public interest in ensuring a regular supply of reliable information to the Press and, therefore, its sources of information should not be dried up.

60. Investigative journalism has been beneficial to the public but it cannot be said that it has always been so. There have been instances of exposure of scandals which in the event have turned out to be no scandals at all, but only the prelude to expensive claims for defamation. There have been instances where the fair conduct of criminal trials has been impaired and there have also been instances of grave and unwarranted invasions of privacy.

61. Courts in U.S.A. have been trying to strike a balance between the various public interests involved. While on the one hand the importance of the Press not being compelled to disclose its sources of information is recognised, on the other, the importance of a private individual being in a position to obtain redress for wrongs done to him is also acknowledged. Neither interest overrides the other. Each case depends on

its own facts. The public has a right of access to information which is of public concern and of which the public ought to know. The newspapers are the agents, so to speak, of the public to collect that information and place it before the public.

62. Courts have an inherent wish to respect the confidence, whether it arises between a doctor and his patient, a priest and a penitent, a banker and his customers, between persons making and answering queries with regard to prospective employees, or arising out of other relationships. A relationship of confidence between a journalist and his source of information is in a different category, but nothing in this involves or will involve any principle that such confidence is not something to be respected. In all such cases, the Court will have to decide, on the particular facts and circumstances whether the interest in preserving this confidence is outweighed by other interests to which the law attaches importance.

63. A claim for immunity was made on behalf of the Press before the Parnell Commission as early as in 1888 but this was rejected by Sir James Hannen sitting with two other judges. In the two cases arising out of the Vassall Inquiry,<sup>18</sup> in which the usual argument was strongly put that if disclosure were ordered in such cases the source of information would dry up, the claim was firmly repelled. Lord Parker expressed the clear opinion in *A. G. V. Clough*<sup>19</sup> that no such immunity had been recognised or existed. In *A. G. V. Mulholland* and *A. G. V. Foster*<sup>20</sup> a similar claim in respect of communications between journalists and sources of information was rejected by the Court of Appeal and Lord Denning in a classic passage said at pp. 489-490 :

"The only profession that I know which is given a privilege from disclosing information to a court of law is the legal profession, and then it is not the privilege of the lawyer but of his client. Take the clergyman, the banker or the medical man. None of these is entitled to refuse to answer when directed to by a judge. Let me not be mistaken. The judge will respect the confidence which each member of these honourable professions receives in the course of it, and will not direct him to answer unless not only it is relevant but also it is a proper and indeed, necessary question in the course of justice to be put and answered. A judge is a person entrusted, on behalf of the community, to weigh these conflicting interests—to weigh on the one hand the respect due to confidence in the profession and on the other hand the ultimate interest of the community in justice being done or, in the case of a Tribunal such as this, in a proper investigation being made into these serious allegations. If the judge determines that the journalist must

answer, then no privilege will avail him to refuse."

64. This question was recently considered by the House of Lords in *British Steel Corporation v. Granada Television Ltd.*<sup>21</sup> and the conclusion which the majority of the House of Lords reached is that there is no absolute immunity for journalists from disclosing their sources of information. If the judge considers that disclosure is necessary or doing justice in the case, he has a duty to insist upon the disclosure and the journalist cannot claim any immunity in such cases. The U.S. Supreme Court has taken the same position as the House of Lords.

65. We are of the view that there is no absolute immunity for journalists from disclosing their sources of information. However, we have noted section 15(2) of the Press Council Act, 1978 which provides that no newspaper, news agency, editor or journalist shall be compelled by the Council to disclose the source of any news or information. The public interest in the free flow of information and hence in protecting a journalist's source of information has to receive wide recognition in our country. The strength of the public interest involved will vary from case to case. The court will have to weigh in each case the public interest in doing justice in a case against the public interest involved in the free flow of information through protection of the confidential source of information. Sarvashri Girilal Jain, Rajendra Mathur, S. K. Mukherjea, H. K. Paranjape and Ishrat Ali Siddiqui do not agree with this view. They hold that journalists should be compelled to disclose their sources, if at all, in extreme cases only and that too in confidence to a Judge or a Judicial Officer, and any changes in laws that may be necessary for this purpose should be made.

## (5) THE LAW OF DEFAMATION

66. The law of defamation has been described as "a tale of two interests". These interests are : the interest of the individual in his reputation, and, the interest of the society that information should pass freely. One opinion is that in the interest of freedom of speech, action for defamation should have no place in law. Justice Douglas of the U.S. Supreme Court held that the First Amendment would bar Congress from passing any libel law. However, this extreme position has never commanded acceptance by the majority of that Court. Our Constitution allows the imposition, by law, of reasonable restrictions on freedom of speech in relation to defamation.

67. In our law, it has been held that every person is entitled *prima facie* to his good name, and imputations which are detrimental to his reputation are not to be made without justification. Secondly, in a free democratic community, every person is entitled to publish fearlessly any statement of fact or expression of opinion—however, forthright or unpopular it may be—irrespective of the fact that it may reflect on or displease particular individuals or groups.

18. Cmnd, 2009, 1963.

19. (1963) 1 Q.B. 773, 788.

20. (1963) 2 Q.B. 477.

21. (1980) 3 W.L.R. 774.



68. A defamatory statement is not actionable unless it is shown that it refers to the plaintiff. There is no need for the defamatory statement to refer expressly to the plaintiff, as, for example, by using his name, so long as the statement is such that he may seem to be the person referred to. The criterion is whether the ordinary reader would reasonably understand the words as referring to the plaintiff, having regard to their terms, and, in appropriate circumstances, any special fact relevant to the identification proved to have been known to a class of readers. The intention of the publisher is immaterial. If a work of fiction is understood to refer to the plaintiff, he will be entitled to succeed. It is irrelevant that the author had no intention of referring to the plaintiff and may not even have been aware of his existence. It was a matter of controversy over the years whether this rule was unjust to an unintentional defamer. *Hulton v. Jones*<sup>22</sup> is the leading case on the subject in England. The defendant published an article based on a fictional character named Artemus Jones. The real Artemus Jones successfully claimed that the article could be read as referring to him and recovered damages. In *Cassidy v. Daily Mirror*,<sup>23</sup> the defendant published newspaper photograph of a couple captioned 'Mr. Cassidy, the race horse owner, and Miss X, whose engagement has been announced'. Mrs. Cassidy successfully used for defamation on the basis that the publication suggested that Mr. Cassidy though living with her was not really her husband. The publisher did not know the circumstances by virtue of which the words were defamatory.

#### *Unintentional Defamation*

69. The Porter Committee in England suggested that lack of intention to defame should not constitute a complete defence to any action for defamation. The Committee thought that any amendment to the law should ensure that all reasonable steps should be taken to clear the reputation of the injured person by correction and apology which should be given publicity appropriate to the circumstances of the original defamatory publication. On the recommendation of the Porter Committee, section 4 of the Defamation Act, 1952, was enacted. That section provides that in a case where a publisher establishes that he unintentionally published words complained of and that he exercised all reasonable care in relation to the publication, he may make an offer to the claimant which would include an offer to publish a suitable correction and an apology. If the offer is accepted proceedings in respect of the publication are barred. If the offer is rejected, the publisher can plead the rejection of the offer as a defence, provided he establishes in addition to his innocence that the offer was made as soon as practicable after the defendant received notice that the words were defamatory of the plaintiff.

70. We recommend that these provisions in section 4 of the British Defamation Act, 1952 be introduced in India.

22. (1910) A.C. 20.

23. (1929) 2 K.B. 331.

#### *Fair Comment*

71. Comments upon a man's character, conduct or work could be as harmful to his reputation as making false allegations against him and such comments could be the basis of an action for defamation. However, there is a special defence of fair comment in this area, viz., that the statement complained of was as fair comment, made in good faith, upon a matter of public interest. To succeed in this defence, the defendant must establish that the view which he expressed on the plaintiff or his conduct was one which he honestly held. He must further establish that the comment was made on a matter of public interest. It has now been provided by Section 6 of the British Defamation Act, 1952, as follows :

"In an action for libel or slander in respect of words consisting partly of allegations of fact and partly of expressions of opinion, a defence of fair comment shall not fail by reason only that the truth of every allegation of fact is not proved if the expression of opinion is fair comment having regard to such of the facts alleged or referred to in the words complained of as are proved."

This has changed the law in England which had previously been that any minute deviation from truth in facts stated would deprive the defendant of the defence of fair comment. We recommend the adoption of the principle underlying the section in our law of defamation by the enactment of suitable legislation.

#### *Absolute Privilege*

72. Publication of fair and accurate reports of judicial proceedings is privileged on the ground that it is to the public advantage and it helps the administration of justice. To attract the privilege, the report must be of judicial proceedings which took place in an open court or a place open to the public. In England, the position is governed by the Libel Amendment Act, 1888, as amended by the Defamation Act, 1952. In Section 8 of the latter, it is provided that a fair and accurate report in any newspaper of proceedings of cases publicly heard before any court exercising judicial authority within the United Kingdom shall, if published contemporaneously with such proceedings, be privileged provided that nothing in this section shall authorise the publication of any blasphemous or indecent matter. The privilege spoken of here is absolute privilege. We recommend that this provision be enacted in India, but dropping the proviso regarding "any blasphemous or indecent matter".

#### *Defamation under the Penal Code*

73. Section 500 of the I.P.C. provides that whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both. We approve the recommendation of the Law Commission of India

which, in its 42nd report, suggested the amendment of this provision to read as follows :

- “(1) Whoever defames another shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.
- (2) Where the offence has been committed by publishing an imputation in a newspaper, the court convicting the offender may further order that its judgment shall be published, in whole or in part, in such newspaper as it may specify.
- (3) The costs of such publication shall be recoverable from the convicted person as a fine.”

We do not, however, favour the adoption of the ‘explanation’ added to the section as passed by the Rajya Sabha on 23rd November, 1978. That explanation reads as follows :

“The court may, before passing a sentence under this section, take into consideration the question whether the guilt of the accused is aggravated by the plea and the nature of the evidence adduced to prove or disprove it.”

#### *Qualified Privilege*

74. We recommend that the schedule to the British Defamation Act, 1952, be adopted in India with certain modifications. Part I of the Schedule gives statements having qualified privilege without explanation or contradiction and Part II gives statements privileged subject to explanation or contradiction. We would favour modification of the entries in the Schedule as follows :—

#### *Part I—Statements privileged without explanation or contradiction*

- (1) A fair and accurate report of any proceedings in public of the legislature of any foreign country.
- (2) A fair and accurate report of any proceedings in public of an international organisation of which India is a member, or of organisations recognised by the United Nations or of any international conference to which the Government of India sends a representative.
- (3) A fair and accurate report of any proceedings in public of an international court.
- (4) A fair and accurate report of proceedings before a court of any foreign country.
- (5) A fair and accurate report of or extract from any register kept in pursuance of any Act of Parliament or State Legislature which is open to inspection by the public or of any other document which is required by the law of any

part of India to be open to inspection by the public.

- (6) A notice or advertisement published by or under the authority of any court, tribunal or commission of enquiry or committee of investigation constituted by any lawful authority in India or any judge or officer of such a court.

#### *Part II—Statements privileged subject to explanation or contradiction*

A fair and accurate report of :

- (7) The findings or decisions of any of the following associations or of any committee or governing body thereof, that is to say,
  - (a) an association formed in India for the purpose of promoting or encouraging the exercise of or interest in any art, science, religion or learning, and empowered by its constitution to exercise control over or adjudicate upon matters of interest or concern to the association, or the actions or conduct of any person subject to such control or adjudication;
  - (b) an association formed in India for the purpose of promoting or safeguarding the interests of any game, sport or pastime to the playing or exercise of which members of the public are invited or admitted, and empowered by its constitution to exercise control over or taking part in the game, sport or pastime.
- (8) The proceedings of any meeting in any part of India of :
  - (a) any local authority or committee of a local authority or authorities;
  - (b) any justice acting otherwise than as a court exercising judicial authority;
  - (c) any commission, tribunal, committee or person appointed for the purpose of any inquiry under an Act of Parliament or State Legislature by the appropriate government;
  - (d) any person appointed by a local authority to hold a local inquiry in pursuance of any Act of Parliament or State Legislature;
  - (e) any other tribunal, board, committee or body constituted by or under, and exercising functions under an Act of Parliament or State legislature, not being a sitting admission to which is denied to representatives of newspapers and other members of the public.

- (9) Proceedings at a general meeting of a company or association constituted, registered or certified by or under any Act of Parliament or State legislature, not being a private company within the meaning of the Companies Act.
- (10) Any notice or other matter issued for the information of the public by or on behalf of any Government Department, officer of State, local authority or chief officer of police.

75. There is one other provision in the British Defamation Act which extends the privilege subject to explanation or contradiction, *i.e.*, to a fair and accurate report of any public meeting. We feel that it is not desirable to introduce this provision in India.

#### *Truth and Public Benefit as Defence*

76. The question is whether the defendant should prove not only the truth of the allegation but also that the publication was in public interest. In 1943, a Select Committee of the House of Lords recommended that in both civil and criminal proceedings, truth should be a defence if, and only if, the publication is for public benefit. The proposal was accepted in Lord Cambell's Libel Act of 1943 which applies to criminal proceedings only. Section 499 of the Indian Penal Code also embodies this principle. The result is that in criminal proceedings justification, *i.e.* truth, by itself, is not a defence. However, with regard to civil proceedings, the proposal of the Select Committee was not accepted by the House of Commons, and the result has been that, truth is a complete defence, both in England and in India, to a civil action against defamation.

77. It has been represented to us that truth should not be a complete defence unless it is accompanied by public interest. This question engaged the attention of the Australian Law Reforms Commission and it was of the view that truth, by itself, should be a complete defence in civil actions as 'public benefit' is a vague term and publishers are entitled to a clear guidance as to the rules binding them. The requirement of public benefit would be adding too much of a burden on journalists. We see no reason for any departure from the present position. Truth alone should continue to be a complete defence.

78. In 1948, the Porter Committee recommended that the plaintiff should not be entitled to recover damages if the defendant proves that the gist of the libel is true, even though he fails to prove the truth of some minor charge, provided that such minor charge does not add appreciably to the injury of the plaintiff's reputation. This recommendation led to the enactment of Section 5 of the Defamation Act, 1952, which, however, failed to carry the recommendation into its full effect. Section 5 is as follows :

"In an action for libel or slander in respect of words containing two or more distinct

charges against the plaintiff, a defence of justification shall not fail by reason only that the truth of every charge is not proved if the words not proved to be true do not materially injure the plaintiff's reputation having regard to the truth of the remaining charges."

The plaintiff could avoid the effect of the above section simply by suing on the minor imputation which he believed the defendant could not prove to be true and by ignoring the more serious true imputations. If he adopted this tactic, the true statements became irrelevant and he was likely to obtain much heavier damages than if the true statements were in issue and proved to be true. The New South Wales Law Reform Commission sought to overcome this strategy by commending the rule to be altered to cover the cases where the plaintiff chooses to sue on some only of a number of imputations. The Faulks Committee recommended that a defendant should be entitled to rely on the whole publication in answer to a claim by the plaintiff complaining only of a part of it, so as to ensure that in assessing the truth of a defamatory publication the effect of the whole can be taken into account and not merely the sting of a selected part. It recommended legislation in this form :

"Where an action for defamation has been brought in respect of the whole or any part of the matter published, the defendant may allege and prove the truth of any of the charges contained in such matter and the defence of truth shall be held to be established if such matter, taken as a whole, does not materially injure the plaintiff's reputation having regard to any such charges which are proved to be true in whole or in part."

This proposal was criticised by the Law Council of Australia Defamation Committee. The Committee thought it illogical to say that the truth of other imputations have the effect of making the false imputation ruled upon true; the only purpose of introducing the true or unchallenged imputations is to show that the false allegation does not materially affect the reputation of the plaintiff and therefore goes to extinguish or reduce the damages which could otherwise be payable. The Australian Law Reform Commission observed :

"The English formulation assumes that a person has a single reputation. Perhaps so, but reputation may have a number of different aspects. Thus a commercial man may be a well-known rake and yet be respected for his business integrity; a man may display modest professional ability, but be an incorruptible community leader. An imputation reflecting on his deserved 'reputation' is not logically proved by proof of shortcomings of a different kind. A distinction can and

should be made between such cases and the type of case where a newspaper reports that a man defrauded ten companies but only proves that he defrauded nine. In this latter case, the imputation made, dishonesty, is made out; the specific facts charged are proved substantially true. In such a case there should be a complete defence."

We endorse the following recommendation of the Australian Law Reform Commission in this regard :

"The Commission believed that it should be a defence to the publication of defamatory matter that the matter complained of is true. Matter should be regarded as being true if the matter, and any imputation in the matter relied upon in the action by the plaintiff was in substance true or in substance was not materially different from the truth. In determining the effect of the publication for the purpose of assessing damages, the court should have regard to the whole of the publication and the extent to which the defendant proves the truth of the matter concerning the plaintiff in the publication."

#### *Right of Reply*

79. The law of defamation in India, in common with the law of England, awards damages to redress the wrong done. It makes no use of *recompense* (*droit de reponse*) or the "right of reply" which is an important remedy in the Continental legal systems. We suggest elsewhere (in the Chapter on the Press as a Public Utility) a limited right of reply and its enforcement through the Press Council.

#### *Place of Filing of Suit*

80. On the question where a suit for defamation should be filed, we are of the view that the present position should continue. Newspaper organisations have raised the plea that filing complaints against newspapers in remote places would seriously inconvenience the accused. This they say has led to harassment of newspapers and journalists. We do not agree with the view that proceedings for defamation against newspapers and periodicals should be initiated in the first instance in a court, civil or criminal, in the State from where the newspaper is published as it will be discriminatory. It might well be asked why the Press should get a favour not available to other persons. Moreover, it is open to a defendant or accused to move the High Court for transfer of the case to a different court. We, however, think that unless there is a *prima facie* case of malice, the Magistrate should dispense with personal appearance of the accused. Clause (1) of section 205 of the Criminal Procedure Code, 1973, may be suitably amended to provide that in criminal complaints for defamation, unless there is a *prima facie* case of malice, the Magistrate shall dispense with the personal attendance of the accused wherever summons is issued and permit him to appear by a pleader; but the Magistrate may not dispense with the personal attendance of the accused,

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where the accused is an editor, publisher or proprietor of a newspaper or periodical, if he is satisfied that the accused has unreasonably refused to publish, within a reasonable time, a reply of the complaint to the alleged defamatory publication. However, we are not proposing any interference with the wide discretion of the Magistrate conferred by Section 205(2) to direct personal attendance of the accused at any subsequent stage of the proceedings.

#### *The Problem of Multiple Publication*

81. The fact that communication to one person amounts to a publication in law means that every communication of the same defamatory matter by the same defamer, whether to a new person or to the same person, is a separate publication giving rise to a distinct cause of action. The sale or delivery of every copy of a newspaper or book is technically a distinct publication, and, if defamatory, gives rise to a separate cause of action. In the United States there is a 'single publication rule', under which any single integrated publication such as one edition of a newspaper or one broadcast is treated as a unit giving rise to only one cause of action. The Faulks Committee in England thought it was a 'tiresome application'. It was of the view that one action would normally be quite sufficient to protect the plaintiff's reputation in relation to all technically separate publications. The Committee conceded, however, that there might be cases where a second action was justifiable, for example, a subsequent and particularly hurtful or damaging publication of the same matter or a contemporary publication of the same matter, perhaps in a foreign country, of which the plaintiff learns after the first action and which is seriously injurious to his reputation. The Committee declined to accept completely the American 'single publication rule'. Instead, it recommended that, where proceedings by a person in respect of a defamation have been concluded, the plaintiff should not be permitted to bring or continue any further proceedings against the defendant in that action in respect of the matter except with the leave of the court. We endorse the following recommendation of the Australian Law Reform Commission on this question :

"The rule as to separate publication should be abrogated and a single publication rule adopted. The multiple publication of particular material should give rise to one cause of action only but, in such an action, the plaintiff should have relief appropriate to all publications. This rule could, however, give rise to unsatisfactory results where a plaintiff was unaware of the extent of the multiple publications and, therefore, did not seek appropriate remedies. The suggestion of allowing the court a discretion to permit the plaintiff to bring further proceedings in respect of the same matter is a flexible approach but it may result in uncertainty. Even after an action is determined, a defendant may be in doubt whether further proceedings may be brought against him.

The position of a plaintiff who discovers that a publication received wider coverage than was first apparent is not entirely clear. Certainty is important to the parties. Moreover, it is desirable that the courts have full information as to the extent of publication in determining relief in the first action. The defendant is likely to know the extent of publication; he should be encouraged to disclose it. Accordingly, the plaintiff should be limited to a single action in respect of a multiple publication but only to the extent disclosed in the action. The plaintiff will have a separate right of action in respect of any additional publication. This will automatically cover any further publication after the first trial as well as any publications which the defendant failed to admit. The provision will leave no doubt as to the rights of the parties. A defendant who makes full disclosure will be liable, if at all, for the multiple publication once for all. A plaintiff who discovers undisclosed material is certain that the court will entertain his action."

#### *Joint Responsibility for Publication*

82. Under the existing law, where an action for defamation is brought in respect of a joint publication of a libel, malice on the part of any one of the persons jointly responsible for such publication is sufficient to defeat the plea of 'fair comment' or 'qualified privilege' so as to render all the defendants jointly liable to the plaintiff. The presence of malice on the part of one defendant renders the whole of the damage recoverable from a co-defendant who may himself be wholly innocent of malice. We think the following statement of law on the point by Gatley is most appropriate :

"Where a person has published defamatory words on an occasion of qualified privilege the privilege will only be defeated so far as he is concerned if he himself is malicious, or if he is liable on the basis of respondent-superior for the malice of a servant or agent."

The incorporation of this principle in our law would mean that :

- (1) A publisher of a newspaper will continue to be vicariously responsible for the malice of his agent;
- (2) A publisher of a newspaper will not be vicariously responsible for the malice of an independent contractor; and
- (3) A publisher of a newspaper will not be vicariously liable for the malice of an unsolicited correspondent, whether anonymous or otherwise.

83. The Faulks Committee in England dealt extensively with the question of liability of distributors, printers and translators. It said that at present distributors of written publications, e.g., booksellers, newsagents and newsvendors enjoy the special defence of innocent dissemination which is not available to the first or main publishers of a work, namely, that :

- (a) they did not know that the book or paper contained the libel complained of;
- (b) they did not know that the book or paper was of a character likely to contain a libel; and
- (c) such want of knowledge was not due to any negligence.

The Faulks Committee recommended the extension of the above defence of innocent dissemination to printers subject to the same or similar conditions or safeguards as in the case of distributors. The Committee said that the result of this recommendation is that, where printers are put on inquiry as to the potentially defamatory character of the work complained of, or are in any way negligent in failing to inquire in relation to any given work, the defence of innocent dissemination will fail; equally, in the normal course of their business of everyday printing they will have a defence which, if the experience of distributors is any guide, will ensure that they are normally not even joined as defendants. As regards translators, the Committee recommended the enactment of the following clause, providing for a defence which "would be equivalent in nature to qualified privilege" :

"Publication by any person of a translation made by him (whether oral or written) shall be protected by qualified privilege provided that the words complained of have been translated in accordance with the sense and substance of the original."

We suggest that the recommendations of the Faulks Committee with regard to the liability of distributors and printers be incorporated in our law. As regards translations, we are of the view that protection should be given to the translator but not to the publication of offending matter in translation.

#### (6) CONTEMPT OF COURT

84. The First Press Commission did not suggest any change in the provisions of the Contempt of Courts Act, 1952. The Sanyal Committee set up in 1961 made a comprehensive study of the law relating to contempt. Its recommendations resulted in the enactment of the Contempt of Courts Act, 1971, and the repeal of the 1952 Act.

85. The Act of 1971, for the first time, gives a complete definition of the expression 'Contempt of Court' in section 2 by codifying the results of judicial decisions. Clause (a) of section 2 states that there are two categories of contempt under the Act, viz.,

'Civil' and 'Criminal'. Disobedience of judicial decrees, orders and the like constitutes 'Civil Contempt' under clause (b) of section 2. Any publication which interferes with or undermines the administration of justice or has a tendency to do so constitutes 'Criminal Contempt' under clause (c) of section 2; and this is the category to which the Press generally becomes answerable

86. The definition in clause (c) of section 2 is in the following terms :

"2(c) 'Criminal contempt' means the publication (whether by words, spoken or written, or by signs, or by visible representations, or otherwise) of any matter or the doing of any other act whatsoever which—

- (i) scandalises or tends to scandalise, or lowers or tends to lower the authority of any court; or
- (ii) prejudices, or interferes or tends to interfere with, the due course of any judicial proceedings; or
- (iii) interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner."

#### *Scandalisation*

87. The present position regarding scandalisation referred to in section 2(c)(i) above is as follows. The scandalisation may be of the judiciary as a whole or of the Court as an institution or of an individual judge or judges thereof but the attack made should be with reference to the administration of justice. The concept is that the public should be protected from any obstruction to public justice, and that there will be such obstruction if the authority of the Court or the confidence of the public therein is undermined or impaired. When allegations of lack of ability, integrity or impartiality are made against a judge it is a wrong done to the public because such allegations would undermine their confidence in the system of administration of justice of which a particular judge or judges are limbs. If the offending matter consists of the vilification of a judge the question is whether the vilification is of the judge as a judge or of the judge as an individual. If it is the latter, it would not be contempt of court unless it tends to create an apprehension in the minds of the people regarding the integrity, ability and fairness of the judge. Fair and reasonable criticism of a judicial act in the interest of the public good does not amount to contempt. The criticism should not impute improper motives to those taking part in the administration of justice and should be devoid of malice. Mere truthfulness of the material published is no defence if there is malice or imputation or improper motive.

88. We have considered the recommendations of the Phillimore Committee in the U.K. on the question of scandalisation of courts and we broadly agree with

them. We think that it is not necessary to adopt the summary procedure in vogue for dealing with all cases falling under Section 2(c)(i). In the summary contempt procedure, judges sit as judges in their own cause and the defendant cannot lay claim to all the safeguards provided under the normal procedural law. It is only where the offensive conduct or the offending imputations are made in the face of the Court or they relate to particular proceedings which are in progress and give rise to a risk of prejudice to the proceedings on hand that the application of the summary procedure would be justified on the ground of urgency. We, therefore, recommend that the application of Section 2(c)(i) should be restricted to such cases only and the Act should be amended accordingly. A new criminal offence should be created to take care of all other cases of contempt falling under Section 2(c)(i). The new offence should be constituted by the publication in whatever form of matter imputing improper or corrupt judicial conduct with the intention of impairing confidence in the administration of justice. It should be triable only on prosecution. As the offence would be one which struck generally at the administration of justice, prosecution should only be at the instance of the Attorney General/Advocate General. As regards defence for the new offence, we agree with the view of the Phillimore Committee that if a defendant were to prove the truth of his allegation and also show that its publication was for the public benefit, he should be entitled to an acquittal. In our view, the creation of the new offence with the defence suggested above would go a long way in removing the complaint that the summary procedure adopted for trying contempt cases inhibits honest and truthful criticism of the administration of justice in public interest.

#### *Interference with or Obstruction of Pending Proceedings*

89. The liability for contempt of court by way of interference with the due administration of justice in judicial proceedings under sub-clauses (ii) and (iii) of section 2(c) is controlled by sections 3 and 13. There will be no liability under these sub-clauses unless the contemptuous publication is made at a time when the proceeding is 'pending' before a court. The explanation to section 3 clearly specifies when a particular kind of judicial proceeding is said to be pending. Thus there will be absolute immunity if the proceeding in relation to which the offending publication is made is not 'pending'. Further, even if the judicial proceeding is pending, the contemner will have immunity if he can show that at the time when he made the publication, he had no reasonable grounds for believing that the proceeding was pending. Although every interference with or obstruction of the administration of justice would technically constitute 'contempt', section 13 lays down that the Court should not impose any punishment unless it substantially interferes or tends substantially to interfere with the due course of justice.

90. In the context of sub-clause (ii) of section 2(c) the term 'prejudice' has been held to mean "to obtain a result of legal proceedings different from that which



would follow in the ordinary course". Publication of comments or representations regarding parties to a pending case or their cause will constitute contempt. The reason for this is that such a publication may deter the plaintiff from continuing his action or force the defendant to a compromise or affect the minds of witnesses. For maintaining public confidence in the administration of justice it is essential to ensure that disputes are decided by the courts fairly and impartially in accordance with the relevant law.

91. There is a conflict of public interest in the area of publications relating to pending proceedings. The principle applicable in this area has been very succinctly put by Chief Justice, Jordan of New South Wales in *Ex parte Bread Manufacturers*,<sup>24</sup> in the following passage which was quoted with approval by the House of Lords in *Attorney General v. Times Newspapers Ltd.*<sup>25</sup>

"It is of extreme public interest that no conduct should be permitted which is likely to prevent a litigant in a court of justice from having his case tried free from all manner of prejudice. But the administration of justice, important though it undoubtedly is, is not the only matter in which the public is vitally interested; and if in the course of ventilation of a question of public concern matter is published which may prejudice a party in the conduct of a law suit, it does not follow that a contempt has been committed. The case may be one in which as between competing matters of public interest the possibility of prejudice to a litigant may be required to yield to other and superior considerations. The discussion of public affairs and the denunciation of public abuses, actual or supposed, cannot be required to be suspended merely because the discussion or denunciation may, as an incidental but no intended by-product, cause some likelihood of prejudice to a person who happens at a time to be a litigant. It is well settled that a person cannot be prevented by process of contempt from continuing to discuss publicly a matter which may fairly be regarded as one of public interest, by reason merely of the fact that the matter in question has become the subject of litigation or that a person whose conduct is being publicly criticised has become a party to litigation either as plaintiff or as defendant, and whether in relation to the matter under discussion or with respect to some other matter."

92. Until the decision of the House of Lords in *Attorney General v. Times Newspapers Ltd.*, the tests formulated by the courts to decide whether contempt had been committed or not were all based on the concept of prejudice to or improper interference with

legal process. We think that it is worthwhile to mention this case in some detail.

93. The facts in *Attorney General v. Times Newspapers Ltd.* were as follows. Between 1959 and 1961 a company manufactured and marketed a drug containing thalidomide. About 450 children were born with gross deformities to mothers who had taken that drug during pregnancy. Certain actions against the company were compromised in 1968 by lumpsum payment of compensation conditional on the allegations of negligence against the company being withdrawn. Thereafter some more claims were admitted to be tried and they were pending. In 1971 negotiations began on the company's proposal to set up a charitable trust fund for the benefit of the deformed children involved which was conditional on all the parents accepting the proposal. Five parents refused. On 24th September, 1972, a national Sunday newspaper published the first of a series of articles to draw attention to the plight of the thalidomide children. The company complained that the article was a contempt of court because litigation against them by the parents of some of the children was still pending. The editor of the newspaper justified the article and at the same time sent to the Attorney General and to the company for comment an article in draft, for which he claimed complete factual accuracy, on the testing, manufacture and marketing of the drug. The Divisional court granted an injunction restraining its publication on the ground that it would be a contempt of court. After the grant of the injunction and while the newspaper's appeal was pending, the thalidomide tragedy was debated in Parliament and speeches were made and reported which expressed opinion and stated facts similar to those in the banned article. Thereafter there was a national campaign in the Press and among the general public directed to bringing pressure on the company to make a better offer for the children and their parents; and the company in fact made a substantially increased offer. Counsel for Times Newspapers took the highest ground for a clear statement of the balance of interest as between the freedom to publish and the protection of the due administration of justice and argued that public interest in this case supported publication. The Divisional Court said that the avowed purpose of the article was to persuade the distillers to pay more and to bring pressure for that purpose to bear on them and their advisers. According to the Court, the newspaper was deliberately seeking to influence the settlement of a pending proceeding and the Court had no hesitation in saying that the publication of the article complained of would create a serious risk of interference with the distiller's freedom of action in litigation and in holding that it would be a clear case of contempt.

94. The Court of Appeal held that there was no contempt in the case. It said that the public had an interest in matters of national concern and in the freedom of the Press to make their comments on such matters and that these had to be balanced against the claim of the Court to keep the stream of justice pure. According to it this was a case in which public interest

<sup>(24)</sup> (1937) 37 S.R. (N.S.W.) at p. 249.

<sup>(25)</sup> (1973) 3 W.L.R. 298.

in open discussion prevailed over the interest of the parties.

95. The House of Lords reversed the decision of the Court of Appeal. While the House of Lords reached the same decision as the Divisional Court, the majority in the House of Lords stated quite a different principle.

96. Lord Reid held that the publication of the material could amount to a contempt of court because there was a serious danger that it would produce public prejudgement of the issue before the Court, viz., whether or not the company had been negligent. The law on the subject was and must be founded entirely on public policy. It was not there to protect the private rights of parties to litigation or prosecution. It was there to prevent interference with the administration of justice and it should, in his judgement, be limited to what was reasonably necessary for that purpose. Public policy generally required a balancing of interests which might conflict. Freedom of speech ought not to be limited to any greater extent than was necessary but it could not be allowed where there would be real prejudice to the administration of justice. He said that there was a difference between direct interference with the trial of an action and words or conduct which might affect the mind of a litigant. Comment likely to affect the minds of witnesses and of the tribunal had to be stopped, for, otherwise the trial might well be unfair. But the fact that a party refrained from seeking to enforce his full legal rights in no way prejudiced a fair trial, whether the decision was or was not influenced by some third party. There were other weighty reasons for preventing improper influence being brought to bear on litigants, but they had little to do with interference with the fairness of a trial. There had to be absolute prohibition of interference with a fair trial but beyond that there ought to be a balancing of relevant considerations. He held that as a general rule where the only matter to be considered was pressure put on a litigant, fair and temperate criticism was legitimate, but anything which went beyond that could well involve contempt of court. But in a case involving witnesses, jury or magistrates, other considerations were involved: there even fair and temperate criticism might be likely to affect the minds of some of them so as to involve contempt. However, it could be assumed that it would not affect the mind of a professional judge. What, according to him, was regarded as most objectionable was that a newspaper or television programme should seek to persuade the public, by discussing the issues and evidence in a case before the Court, whether civil or criminal, that one side was right and the other wrong. He thought that anything in the nature of prejudgement of a case or of specific issues in it was objectionable, not only because of its possible effect on that particular case but also because of its side effects which might be far reaching. Responsible mass media will do their best to be fair, but there would also be ill-informed, slapdash or prejudiced attempts to influence the public. If people were led to think that it was easy to find the truth, disrespect for the processes of the law could follow, and, if mass media were allowed to judge, unpopular

causes would fare very badly. Lord Morris of Borth-y-Gest said that a court would only find "contempt" where the risk of prejudice was serious or real or substantial. Lord Cross of Chelsea said that it was wrong to publish an article prejudging an issue in pending litigation but it was not wrong to seek to influence a litigant; if the writer stated the facts fairly and expressed his view temperately the fact that the publication may bring great pressure to bear on a litigant would not make it a contempt of court.

97. The decision in the above case attracted lively reaction from the Phillimore Committee. The Committee was of the view that a litigant might find himself the object of widespread and hostile public criticism or comment, an atmosphere in which a robust man with substantial resources might survive better than a sensitive one without them. Although a litigant had the protection of the law of libel there was a great deal that a campaign of adverse comment, even by a single newspaper, could do without infringing that law. The Committee said that it was neither easy nor logical to draw a distinction between public and private pressure upon litigants. The force of a campaign of moral pressure depended to some extent upon the validity of the moral grounds upon which it was based. A fair and temperate campaign could achieve more by virtue of its very quality, than an unfair or intemperate one. However, the Committee was clear that criticism of a litigant, whether public or private, was not something from which the law of contempt should protect him. But if the conduct directed against a litigant amounted to intimidation or unlawful threats to person, property or reputation, it should be capable of being treated as Contempt.

98. The Phillimore Committee noted that the greatest criticism of the law of contempt lay in its uncertainty as it affected the Press. Many different definitions of contempt by publication had been propounded by the courts over the years. The application of the test of contempt in any given case was difficult. According to the Divisional Court in the *Times Newspapers* case the test was whether the words complained of created a serious risk that the course of justice may be interfered with. But questions as to what was serious or what was interference were extremely difficult questions for editors to decide in the rush of getting a newspaper to the Press. In this context the Committee tried to frame a test of general application to mitigate the difficulties of the Press. According to the Committee, the test of 'pre-judgement' laid down by the House of Lords in the *Times Newspapers* case would make for greater certainty in one direction provided a satisfactory definition of 'pre-judgement' could be found but was not satisfactory in others. An opinion expressed in a learned journal might come within the meaning of 'pre-judgement'. The Committee pointed out that discussions and expressions of opinion had appeared in scientific journals as to the manner in which thalidomide operated to produce deformities and those would fall within the test of 'pre-judgement' and constitute 'contempt'. It was difficult to determine at what point a discussion or expression of opinion



ceased to be legitimate and qualified as 'pre-judgement'. The scope and precise meaning of the words 'pre-judge' or 'pre-judgement' were not easier to determine in practice than the phrase 'risk of prejudice'. Further, an expression of opinion and even its repetition could be so framed as to disclaim clearly any intention to offer a concluded judgement and yet be of highly persuasive and influential character. The Committee concluded that no satisfactory definition could be found which did not have direct reference to the mischief which the law of contempt was designed to support viz., the risk of prejudice to the due administration of justice. What the law aimed at is prejudice and obstruction. The law should aim at preventing serious prejudice. The test suggested by the Committee is :

"The test of contempt is whether the publication complained of creates a risk that the course of justice will be seriously impeded or prejudiced."

99. We are of the view that the definition of criminal contempt in sub-clauses (ii) and (iii) of section 2(c) has to be amended. At present, every publication which howsoever minutely interferes or tends to interfere with a pending judicial proceeding technically constitutes 'contempt' under these sub-clauses, although it does not become punishable under section 13 unless the interference is substantial. We do not see any reason why a publication should constitute a technical 'contempt' unless it is also punishable under the Act. This could lead to unnecessary harassment of newspapers. The English case dealt with *in extenso* in the previous paragraphs clearly indicates that the trend in other countries is that an action under the law of contempt against a publication would be justified only when there is substantial interference with pending judicial proceedings. We therefore recommend that the definition in sub-clauses (ii) and (iii) of section 2(c) should be tightened by making it clear that it is only a substantial interference that constitutes contempt under the Act. If this change is effected in the definition itself there will be no need to retain section 13 in the Act. The wording of section 3 will also need consequential changes.

100. Publication of a fair and accurate report of a pending judicial proceeding is protected under section 4 provided it is not prohibited under section 7. Section 7 prohibits such publication where it is prohibited by a statute or by the Court on certain grounds, such as security of the State, public order and the like. Publication of a fair criticism of a judicial act including a judicial decision is also protected under section 5 because the public has an interest in the proper administration of justice. Judges and court are alike open to criticism and if reasonable argument is offered against any judicial act as contrary to law or public good, such criticism is protected and will not amount to contempt. This immunity on the ground of fair comment is an adjustment between the public interest in freedom of expression and the public interest in the free flow of justice. The plea of fair comment on a

judgement cannot be availed of if the comment is made before the case is heard and finally decided. Under explanation (a) to section 3 a case cannot be said to have been 'finally decided' until the period of limitation for preferring appeal or revision against the decision commented upon has expired, or, if appeal or revision has been filed, the appeal and revision, too, has been heard and finally decided.

101. The Press does have the right, which is also its professional function, to criticise and advocate. The whole gamut of public affairs including the administration of justice is the domain for fearless and critical comment. But the public function which belongs to the Press makes it an obligation of honour to exercise this function only with the fullest sense of responsibility. Without such a lively sense of responsibility a free Press might readily become a powerful instrument of injustice. The competing claims of the Court to maintain its authority and of the freedom of the Press to comment on matters of public interest must be reconciled. Without a free Press there can be no free society. Freedom of the Press, however, is not an end in itself but a means to an end of a free society. The independence of the judiciary is no less a means to the end of a free society and in fact the proper functioning of an independent judiciary puts the freedom of the Press in its proper perspective. A free Press is not to be preferred to an independent judiciary, nor an independent judiciary to a free Press either. No judge fit to be one is likely to be influenced consciously except by what he sees and hears in court and by what is judicially appropriate for the deliberation. However, judges are human. There is the powerful pull of the unconscious. Since judges, however stalwart, are human, the delicate task of administering justice ought not to be made unduly difficult by irresponsible publication.

102. Publication of reports of crimes is a regular feature of the news. Such items are clearly matters of public interest. But it is also clear that a trial for the commission of these crimes will probably follow sooner or later. A report of the crime may, however, accurate it attempts to be, contain a statement of fact which is likely to be hotly disputed at the trial. It may be a question of identity or of some small detail on which a criminal trial can sometimes turn. In order to compile a report it is usually necessary to interview witnesses who may later be witnesses at the trial. The reporter may be able to obtain a very full account of what occurred and be in a position to publish a considerable amount of what would later become evidence at the trial. But there are dangers in their publication, particularly where the circumstances of a crime seem to lay suspicion upon a particular person. Even the publication of photograph of an accused is a question of extreme delicacy as in many criminal trials identification of an accused person is a vitally important issue. A witness, unable to form a mental picture of the accused might quite honestly derive such a picture of the person whose photograph he has seen in the newspaper. Such a publication may cast doubt on the prosecution's identification evidence, or jeopardise the accused. Either way it is undesirable. On the other hand, photographs of wanted men

are sometimes published at the request of the police either to assist in their apprehension or to warn the public against them, or both. It must, therefore, necessarily be a question of fact and circumstance whether a publication in any particular case offends against the law.

103. Journalists sometimes investigate suspected crimes, malpractices and abuses and accumulate evidence. Publication of such material is often in the public interest and also helps in boosting the circulation of the newspaper. The law of contempt does not hinder publication of such accumulated evidence before the accused are arrested and charged. But when once judicial proceedings are set in motion the Press should not publish the evidence. When a person is being tried for an offence, if the Press has evidence that some other person is guilty of the crime, propriety would demand that the evidence in the possession of the Press be placed before the Court. By adopting such a course it will get the credit for its investigative effort though the advantage of increased circulation through publication exclusively in its columns would be lost.

104. Publication of comments on or criticism of public utterances of judges is not contempt because the judge sheds his mantle as a judge when he enters the public arena of debate.

105. The Press, however, must at all times act in a responsible manner. The Press should eschew use of immoderate language, the tendency to give a slant to the copy and sensationalising events with a view to increasing circulation or satisfying the sadistic curiosity of the public.

## (7) CONTEMPT OF LEGISLATURE

### *Provisions in the Constitution*

106. The powers, privileges and immunities of Parliament and State legislatures have been provided for in Articles 105 and 194 of the Constitution. These two articles are in identical terms containing four clauses each, and we are concerned only with the second and third clauses.

107. Clause (2) confers immunity to publication of proceedings, papers, etc., of a House only when the publication is made by or under the authority of that House. The implication is that even a true newspaper report of proceedings of a House is not protected under this clause.

108. Clause (3) as it originally stood stated that in all those respects not covered by these provisions, the powers, privileges and immunities of Parliament and State legislatures, until defined by law, shall be those of the House of Commons of the Parliament of the United Kingdom as existing at the time of the commencement of the Constitution. The forty-fourth amendment of the Constitution made verbal changes

in this clause omitting the reference to the House of Commons but the substance of the clause remains the same. Thus the position today is that if one were to ask what are the privileges of Parliament and State legislatures in India other than those specified in Articles 105 and 194, the answer is that they are the same as those of the House of Commons as existing on 26th January 1950.

109. The First Press Commission recommended that both Parliament and State legislatures should define by legislation the precise powers, privileges and immunities which they possess in regard to contempt and the procedure for enforcing them. This question has been a matter of public debate over the years and several arguments have been propounded for and against codification of privileges.<sup>26</sup> The main argument against codification of privileges which has weighed with the Parliament and State legislatures appears to be that once codification is done by a law, such a law would automatically become subject to all the fundamental rights guaranteed in Part III of the Constitution and the matter would become justiciable, conferring powers on the courts to adjudicate on questions of privilege thereby lowering their dignity. It has been said that codification of privileges would expose Parliament and State legislatures "to an alien body", viz., the judiciary.<sup>27</sup> We think that the judiciary which is as much a creature of the Constitution as the Parliament or State legislature is not an alien body under the scheme of our Constitution. In fact, laws enacted by Parliament and State legislatures are, on occasions, being struck down by the courts when warranted by the constitutional provisions and on that account it cannot be said that the dignity of Parliament or the legislature suffers. Similarly Judges of the highest court in the land are appointed by the executive and for that reason one cannot say that their independence or prestige is affected. We think that from the point of view of freedom of the Press it is essential that the privileges of Parliament and State legislatures should be codified as early as possible.

110. The First Press Commission had pointed out that in India, with its written Constitution and fundamental rights of freedom of speech and expression guaranteed by the Constitution, it might not be wholly

(<sup>26</sup>) Please see : (a) Foreword by the late K. Subba Rao, former Chief Justice of India, to V. G. Ramachandran's book entitled "Law of Parliamentary Privileges in India" (1972 ed.); (b) "Parliamentary Privileges and their Codification" by P. Govinda Menon, former Law Minister (a booklet published by the Institute of Constitutional Law and Parliamentary Studies); (c), H. M. Seervai : "Constitutional Law of India" Vol. II (2nd ed.), pp. 1161—1184; (d) A. P. Chatterjee : "Parliamentary Privileges in India", 1971; (e) C. K. Dapthary : "Parliamentary Privileges" in the Journal of Parliamentary Information, Vol. 23 (1977), pp. 385—395; (f) L. M. Singhvi : "Codification of Privileges in India", in the Journal of Constitutional and Parliamentary Studies, Vol. 9 (1975); (g) J. P. Chaturvedi : "Parliament and the Press" in the Journal of Constitutional Law and Parliamentary Studies, Vol. 9 (1975), pp. 302—308; (h) P. S. Pachauri : "The Law of Parliamentary Privileges in U.K. and India" (1971).

(<sup>27</sup>) See the report published in the *Times of India* (New Delhi) dated 6th September 1981 on the seminar on the working of Parliament organised by the Rajaji International Institute of Public Affairs and Administration.

appropriate to adopt bodily the basic concepts of the privileges of the House of Commons. It advocated greater caution in adopting them, even though permitted by the Constitution, and in applying them consistently with the Indian Constitution and Indian conditions.

#### *Decisions of the Supreme Court*

111. In *M. S. M. Sherma v. Shri Krishna Sinha*<sup>(28)</sup> the question arose for consideration whether a State legislature had the privilege under Article 194(3) to prohibit entirely the publication of the publicly seen and heard proceedings that took place in the legislature. In deciding this question the court inquired into whether the House of Commons in U.K. had such a privilege and came to the conclusion :

"The result of the foregoing discussion, therefore, is that the House of Commons had at the commencement of our Constitution the power or privilege of prohibiting even a true and faithful report of the debates or proceedings that take place within the House. *A fortiori* the House had at the relevant time the power or privilege of prohibiting the publication of an inaccurate or garbled version of such debates or proceedings. The latter part of Article 194(3) confers all these powers, privileges, and immunities on the House of Legislature of the States, as Article 105(3) does on the House of Parliament."

Dealing with the argument that the conditions that prevailed in the dark days of British history which led the House of Commons to claim its various powers, privileges, etc., did not now prevail either in the U.K. or in our country, and that there was, therefore, no reason why we should adopt them in these democratic days, the Court said :

"Our Constitution clearly provides that until Parliament, or the State Legislature, as the case may be, makes a law defining the powers, privileges and immunities, of the House, its members and committees, they shall have all the powers, privileges and immunities of the House of Commons at the date of commencement of our Constitution and yet to deny them those powers, privileges and immunities, after finding that the House of Commons had them at the relevant time, will not be to interpret the Constitution but to re-make it."

112. In the above case the Court also decided the question whether the privileges of Parliament and State legislatures under Articles 105 and 194 prevail over the fundamental right of freedom of speech and expression guaranteed under Article 19(1)(a). The Court admitted that a law made in pursuance of the earlier part of clause (3) of Articles 105 and 194 would be one made in exercise of ordinary legislative

powers and consequently, if such a law took away or abridged any of the fundamental rights, it would be void. But the Court held that it did not, however, follow that if the powers, privileges or immunities conferred by the latter part of those articles were repugnant to the fundamental rights, they must also be void to the extent of such repugnancy. The Court pointed out that it should not be overlooked that the provisions of Articles 105(3) and Article 194(3) were constitutional laws and not ordinary laws made by Parliament and State legislatures and that therefore they were as supreme as the provisions of Part III of the Constitution. On the principle of harmonious construction, the Court held that the provisions of Article 19(1)(a) which were general, had to yield to the provisions of Article 194(1) and the latter part of its clause (3) which were special. The decision on this point was treated as having been settled and was reiterated in *Special Reference No. 1 of 1964*.<sup>(29)</sup>

113. The approach of the Court to the privileges under the latter part of clause (3) of Articles 105 and 194 underwent a slight change in *Special Reference No. 1 of 1964*. In this Reference, the Court held that the powers of the House of Commons were those which were still in existence at the commencement of the Constitution and not those which had fallen into desuetude or the claim in respect of which had been given up by the House of Commons. The Court further held that only those powers could be deemed to have been conferred on the Parliament and State legislatures in India which were not only claimed by the House of Commons but also recognised by the British courts.

114. Thus, according to the construction put by the Supreme Court, our Parliament and State legislatures have the same powers, privileges and immunities under the latter part of clause (3) of Articles 105 and 194 as those claimed by the House of Commons in U.K. as on 26th January 1950 and accepted by the British courts as such.

#### *Privileges of the House of Commons in U.K.*

115. The powers, privileges and immunities of the House of Commons in U.K. have not been defined anywhere. They are part of the common law of England and have to be pieced together from numerous precedents. Erskine May's "Parliamentary Practice" is considered to be an authoritative book on the subject. The classic annotated "Constitution of the Australian Commonwealth" by Quick and Garran is said to contain a fairly exhaustive list of the powers, privileges and immunities of the British Houses of Parliament.

116. In relation to the Press, the House of Commons enjoys the right to prohibit publication of its proceedings by a newspaper. However, reporting of debates in the House of Commons is now tolerated in practice so long as it is faithful and correct, but punishment follows if it is inaccurate and *mala fide*. It follows from this that the Parliament and State

<sup>(28)</sup> (1954) supp. (1) S.C.R. 806.

<sup>(29)</sup> (1965) 1 S.C.R. 413.

legislatures in India have the power under Articles 105(3) and 194(3) to treat even a true newspaper report of their proceedings as contempt and proceed to take action against the newspaper for breach of privilege. The enactment of Article 361-A has not altered the position because that article protects a newspaper from civil and criminal proceedings only and not from proceedings for contempt of legislature.

117. According to Halsbury's Laws of England<sup>(30)</sup>, any act or omission which obstructs or impedes any member or officer of the House in the discharge of his duty, or which has a tendency to produce such a result would constitute 'Contempt of Legislature'. A contempt caused in the presence of the House is known as *ex facie* or 'direct' contempt. But the Press generally becomes subject to what is known as 'constructive' or 'indirect' contempt arising from acts, speeches, words or writings published outside the House. Indignities offered to the House by words spoken, or writing published, reflecting on its character or proceedings are punishable in contempt as such acts tend to obstruct the House in the performance of its functions and lower it in the estimation of the public. A reflection on a member, as a member of the House, is deemed to be a reflection on the House. Publication of false or scandalous libels on the House or its proceedings are considered breaches of privilege. Instances of such misconduct, treated as breach of privilege, are :

- (a) publishing a false account of the proceedings ;
- (b) publishing a scandalous misrepresentation of what passed in the House or what was said in the debate ;
- (c) publishing gross or wilful misrepresentation of a member's speeches ;
- (d) publishing a gross libel on the character and conduct of a member, while publishing a report of another member's speech ;
- (e) suppressing speeches of a particular member ;
- (f) publishing proceedings ordered to be expunged from the journals ;
- (g) publishing a libel on counsel under colour of reporting the proceedings of a committee before which he appears ;
- (h) publishing a forged paper as His Majesty's speech to both the Houses ; and
- (i) premature publication of a committee's proceedings or evidence.

#### *Recommendations of the Select Committee of House of Commons*

118. A Select Committee appointed by the House of Commons in 1966 to review the law of parliamentary privilege made a series of recommendations<sup>(31)</sup>. The

(30) 28 Halsbury's 'Laws of England', 465 (3rd ed.).

(31) House of Commons Paper No. 34 (1967-68).

Committee said that the use of the word 'privilege' could convey to the public generally the false impression that members were and desired to be a 'privileged class'. It emphasized the fundamental principle that 'privileges' were not the prerogative of members in their personal capacities but were claimed and enjoyed by the House in its corporate capacity and by its members on behalf of the citizens whom they represented. The Committee favoured the discontinuance of the use of the term 'privilege'. Accordingly the Committee preferred to refer to "the rights and immunities" of Parliament and its members, rather than their "right and privileges"; to "Contempt of the House" rather than to "breach of privilege"; and to speak generally of the "penal jurisdiction of Parliament" rather than the power to punish for "breach of privilege". The Committee said that regard must be had to the importance of preserving freedom of speech in matters of political controversy. According to the Committee, the law of parliamentary privilege was not, except in the clearest case, to be invoked so as to inhibit or discourage the formation and free expression of opinion outside the House by members equally with other citizens in relation to the conduct of the affairs of the nation. It was of the view that the law of parliamentary privilege should not be administered in a way which would fetter or discourage the free expression of opinion or criticism, however prejudiced or exaggerated such opinion, or criticism might be. We agree with these observations and endorse the following recommendations of the Committee for adoption by our Parliament and State legislatures :

- (1) The penal jurisdiction of the House should be exercised as sparingly as possible and only when the House is satisfied that to exercise it is essential in order to provide reasonable protection for the House, its members or its officers, from such improper obstruction or attempt at or threat of obstruction as is causing or is likely to cause interference with the performance of their respective functions.
- (2) In the ordinary case where a member has a remedy in courts he should not be permitted to invoke the penal jurisdiction of the House in lieu of or in addition to that remedy.
- (3) The penal jurisdiction should never be exercised in respect of complaints which appear to be of a trivial character or unworthy of the attention of the House. Such complaints should be summarily dismissed without the benefit of investigation by the House or its Committee.
- (4) In general, the power to commit for contempt should not be used as a deterrent against a person exercising a legal right, whether well-founded or not, to bring legal proceedings against a member or an officer.

- (5) It should be open to the House in deciding whether or not a contempt has been committed to take into account an honest and reasonable plea in the truth of the allegations made, provided that they have been made only after all investigations had taken place, had been made in the honest and reasonable belief that it was in the public interest to make them, and had been published in a manner reasonably appropriate to that public interest. If the person against whom the complaint has been made is able to satisfy the House of all these matters, he cannot be said to have improperly obstructed or attempted improperly to obstruct the House and ought accordingly to be acquitted of contempt.
- (6) The following conduct should not of itself be regarded as being capable of constituting a contempt of the House :
- (i) To publish, in advance of the publication of the relevant papers :
    - (a) how any member in fact voted in a division; (b) the content of any parliamentary question or notice or motion which has in fact been tabled;
  - (ii) To publish the expressed intention of a member to vote in a particular manner (or to abstain from voting) or to table a particular parliamentary question or notice of motion.
- (7) The type of contempt likely to be committed in modern times can often best be dealt with by a fine. Moreover, it is the only penalty which can be imposed upon a limited company or other corporate body.
- (8) The House should enjoy the power to remit, suspend or vary any penalty which it has imposed, upon receiving adequate undertakings from the person found guilty of contempt or for other good cause.

However, Sarvashri P. V. Gadgil, Rajendra Mathur, Girilal Jain, Ishrat Ali Siddiqui and H. K. Paranjape are of the view that a legislature should not have the penal power of a court of law, and that a person can be punished for contempt of a legislature only by a court of law and after the privileges of that legislature have been codified.

119. There is one important limitation with regard to privileges of the House of Commons in U.K. Both the Parliament and the courts in U.K. have laid down that the Houses of Parliament in U.K. have no right to extend their privileges beyond those to which recognition has already been accorded. Therefore, the position is that no new privileges can be claimed by the House of Commons.

### *Publication of Reports of proceedings*

120. As already noticed, the House of Commons in U.K. has an absolute privilege to publish its proceedings so that neither an officer of the House nor any member is liable under the ordinary law for defamatory or other unlawful matter if contained in a proceeding of the House and published in an official report. However, if such proceedings are published privately or through an unofficial Press, both the member who made the speech and the press which published it would be liable under the ordinary law. The common law, however, offers the protection of a "qualified privilege" to such a publication having regard to the fact that such matter was contained in a parliamentary proceeding, the publication of which, even though made through the private Press, was essential to the welfare of the nation. To claim this qualified privilege the report published must be fair and accurate and must have been made in good faith and without malice. This was based on the decision in *Wason v. Walter* <sup>(32)</sup> where it had been held that a faithful report in a public newspaper of a debate in either House of Parliament containing matter disparaging to the character of an individual which had been spoken in the course of a debate was not actionable at the suit of a person whose character had been called in question. The principle involved here is the same as in an accurate report of proceedings in a court of justice, namely, that the advantage of publicity to the community at large outweighs any private injury resulting from the publication. The principle has now been statutorily given recognition in the British Defamation Act of 1952 under the provision of which a newspaper is not liable for defamation if :

- (a) the report complained of is of public concern ;
- (b) is not otherwise prohibited by law; and
- (c) the newspaper has published at the plaintiff's request a reasonable statement by way of contradiction or explanation of the report complained of.

121. In *Suresh v. Punit*, <sup>(33)</sup> the Calcutta High Court held that the qualified privilege referred to in the preceding paragraph was not available in a criminal proceeding in India. The Court held that the immunity conferred by clause (2) of Articles 105 and 194 was confined to publication "by or under the authority of the House" and that there was nothing else to except a newspaper report from the criminal law of defamation codified in section 499 of the I.P.C. Keeping this in view, the First Press Commission recommended that exception 4 of section 429 I.P.C. should be amended by inserting the words "or of Parliament or State legislature" to protect publication of a substantially true report of the proceedings in a

(32) (1869) 4 Q.B. 73.

(33) A.I.R. 1951 Cal. 176.

legislature from the law of defamation. But the Parliament enacted the Parliamentary Proceedings (Protection of Publication) Act, 1956 (Feroze Gandhi Act) conferring such immunity on newspapers. Some State legislatures also enacted similar legislation. The Act was repealed in December 1975 but was re-enacted in 1977. Now the law on the point has been incorporated in the Constitution itself. A new article, namely, Article 361A, has been inserted by the Constitution (44th Amendment) Act, 1978, which lays down that :

"No person shall be liable to any proceedings, civil or criminal, in any court in respect of the publication in a newspaper of a substantially true report of any proceedings of either House of Parliament or the Legislative Assembly, or, as the case may be, either House of the legislature, of a State, unless the publication is proved to have been made with malice."

The protection conferred by this Article extends to news agency reports containing material for publication in a newspaper. The Article however, does not apply to the publication of any report of the proceedings of a secret sitting. The provision in Article 361-A, being a constitutional provision, overrides section 499 of the I.P.C.

122. Shri P. V. Gadgil holds that Article 361-A is not valid and its enactment is open to challenge on legal grounds. He has elaborated the point in a separate note. He is of the view that this Article should be repealed because it enables newspapers to indulge in character assassination. We do not, however, share this view. The citizen has a right to know what his representative says in the legislature. It should be noted that a publication with malice is not protected under Article 361-A. We think the remedy for the malady pointed out by Shri Gadgil lies in preventing members from making false and reckless allegations on the floor of the House by the stricter enforcement of procedural rules governing proceedings of Parliament and State legislature.

#### *Procedure for Considering Breaches of Privilege*

123. There is considerable resentment amongst newspapermen with regard to the procedure adopted by Parliament and State Legislatures for dealing with cases of alleged contempt. We have looked at rules 222 to 228 and 313 to 316 of the Rules of Procedure and Conduct of Business in the Lok Sabha. Rule 228 says that the Speaker may issue such directions as may be necessary for regulating the procedure in connection with all matters connected with the consideration of the question of privilege either in the Committee or Privileges or in the House.

124. In *M.S.M. Sharma v. Sri Krishna Sinha* (Supra) it was contended that the proceedings before the Committee of Privileges threatened to deprive the petitioner of his personal liberty otherwise than in

accordance with procedure established by law. Dealing with this contention the Supreme Court held :

"Article 194(3) confers on the Legislative Assembly those powers, privileges and immunities (i.e. of the British House of Commons) and Article 208 confers powers on it to frame rules. The Bihar Legislative Assembly has framed rules in exercise of its power under that Article. It follows, therefore, that Article 194(3) read with rules so framed has laid down the procedure for enforcing its powers, privileges and immunities. If, therefore, the Legislative Assembly has the powers, privileges and immunities of the House of Commons and if the petitioner is eventually deprived of his personal liberty as a result of the proceedings before the Committee of Privileges, such deprivation will be in accordance with procedure established by law and the petitioner cannot complain of the breach, actual or threatened, of his fundamental right under Article 21."

125. But in *Special Reference No. 1 of 1964* (Supra) the Supreme Court said that the impact of the fundamental right conferred on the Indian citizen by Article 32 on the construction of the latter part of Article 194(3) was decisively against the view that a power or privilege could be claimed by the House though it may be inconsistent with Article 21. The Court pointed out that the rules for regulating the procedure of the House were subject to the provision of the Constitution under Article 208(1). What Article 212(1) laid down was that the validity of any proceedings in the legislature of a State shall not be called in question on the ground of any alleged irregularity of procedure. The Court observed that Article 212(1) seemed to make it possible for citizen to call in question in the appropriate court of law the validity of any proceeding inside the legislative chamber if his case was that the said proceedings suffered, not from mere irregularity of procedure, but from an illegality. In other words, if the impugned procedure is illegal and unconstitutional, it would be open to be scrutinised in a court of law.

126. While considering the mandate of Article 21 of the Constitution in *Maneka Gandhi v. Union of India*<sup>(34)</sup> Chandrachud, J. (as he then was) said that the procedure prescribed by law has to be fair, just and reasonable, not fanciful, oppressive or arbitrary. Bhagwati, J. who delivered the leading judgment in the above case said that a law prescribing a procedure for depriving a person of his 'personal liberty' has to be consistent with the fundamental rights under Articles 14 and 19. The procedure laid down must answer the test of reasonableness to be in conformity with Article 14. The procedure has to be "right, just and fair"; otherwise it would be no procedure at all. The principles of natural justice

(34) A.I.R. (1978) S.C. 597.



like *audi alteram partem* cannot be disregarded. The Court said that "fair play in action" was the soul of natural justice and before any prejudicial or adverse action is taken against a person he must be given an opportunity to be heard. The doctrine of natural justice applies not only to judicial and quasi-judicial proceedings but also to administrative inquiries.

127. The Select Committee of the House of Commons referred to in para 13 *and* also recommended that a person against whom a complaint of breach of privilege is made should be entitled as of right to attend the proceedings of the Privileges Committee throughout the hearing of evidence and submissions unless the Committee in its discretion decides otherwise for reasons to be recorded in writing. The Committee further recommended that the person against whom the complaint is made should be entitled to apply to the Privileges Committee at any stage of the proceedings for the right to be represented by counsel or solicitor or by any other person and if the Privileges Committee decided otherwise it should record its reasons in writing. It suggested that the Privileges Committee should be entitled to permit the calling of any witness by the person against whom a complaint of breach of privilege is made including the rights of examination, cross-examination and re-examination of witnesses.

128. We are of the view that the rules of business of the houses of Parliament and State legislatures in India dealing with the procedure for taking action against alleged breaches of privilege, etc. should be reviewed and necessary provisions incorporated therein to provide for a reasonable opportunity to alleged contemnors to defend themselves in the proceedings for breach of privilege. While doing so, the principles enunciated by the Supreme Court in *Maneka Gandhi* (supra), particularly those relating to the requirements of natural justice, will have to be kept in view. The rules framed should not violate the fundamental rights. A limitation of one year should be prescribed for taking cognizance of publication of offending material in the newspapers on the ground of breach of privilege. The right of the Press to be present in the legislature, as in the courts, should be recognised.

#### *Publication of expunged matter*

129. The Press Gallery Committee of the Lok Sabha pointed out to us that a problem arises when certain portions of the proceedings of the House are expunged by the chair without making it clear on the spot what exactly is expunged and the expunged portions are carried by the newspapers without knowing that they are expunged. In this connection we reiterate the view of the First Press Commission that unintentional and unavoidable transgressions of the rulings of the Chair such as publication of the proceedings of the legislature before the order of the presiding officer expunging those proceedings reached the newspaper offices should not be regarded as a breach of the privileges of the House.

130. The Press should not publish expunged portions of the proceedings of a legislature. An expunged portion does not form part of the 'proceedings' and its publication is not saved by Article 361-A. A publication of an expunged portion of the proceedings of the House of Commons in U.K. is recognised as a breach of privilege and it should be so in India in view of the latter part of clause (3) of Articles 105 and 194 of the Constitution. However, Dr. H. K. Paranjape is of the view that a newspaper should have the right to publish even those portions which have been expunged, because the citizens of the country have a right to be informed of the activities of their representatives in Parliament and the State legislatures.

#### (8) THE PRESS AND REGISTRATION OF BOOKS ACT, 1867

131. This is the oldest of the existing Press laws. It has been amended a number of times after independence. The provisions of Part VA relating to registration of newspapers and the creation of the office of Press Registrar were inserted by the amending Act in 1955. Our examination of the Act has prompted us to suggest a number of amendments.

132. The word 'newspaper' has been defined in sub-section (1) of section 1 to mean "any printed periodical work containing public news or comments on public news". Therefore, the definition comprehends not only daily newspapers but also news magazines of all periodicities under one category. The publication of a newspaper commences only after the making of a declaration under section 5(2) and its authentication under section 6 as laid down in section 5(2C). This being so, the Magistrate authenticating the declaration cannot ascertain the contents of the publication to make sure that it falls within the definition of 'newspaper'. However under section 8B(iv), the Press Registrar can make an application before the Magistrate for cancellation of the declaration in respect of a newspaper if he finds that the publication has, in fact, turned out to be a periodical which is not a newspaper. But it appears that what has happened over the years is that a large number of publications which did not actually turn out to be genuine newspapers have obtained registration on the strength of the District Magistrate's authentication of the declaration by the intending publisher. The Press Registrar has not been taking action under section 8B(iv) to get such declarations cancelled.

133. The question whether a publication is a 'newspaper' or not has to be decided by the concerned Magistrate on an application made to him under section 8B(iv) of the Act with reference to the definition contained in section 1(1). The definition is couched in broad terms. What is 'public news' cannot be defined; nor is it possible to prescribe a minimum quantum of 'public news' in a newspaper. However, if all the contents of a publication over a period of time are brought to the notice of a Magistrate it should be possible for him to judge whether it could be classed as a newspaper or not.

134. Under the present scheme, the register of newspapers maintained by the Press Registrar includes : (i) daily newspapers containing public news or comments on public news ; (ii) publications of various periodicities including weeklies, fortnightly and monthlies containing public news or comments on public news ; and also (iii) publications of various periodicities which do not carry public news or comments thereon to any significant extent. This has led to a lot of confusion. If one were to make meaningful use of the statistical data available with the Press Registrar, one has to undertake the almost impossible task of reclassifying the data under 'daily newspapers', 'news magazines' and 'other periodicals'.

135. We came across several examples of 'newspapers' which without much significant public news have been carrying registration numbers given by the Press Registrar. While awarding registration numbers to all seekers, the Press Registrar has, in recent years, been classifying them in three categories : (i) news-interest ; (ii) non-news-interest ; and (iii) miscellaneous 'non-newspaper' publications. The Press Registrar has been allocating newsprint to publications of all these categories.

136. Whereas the PRB Act merely stipulates that a newspaper should carry public news or comment thereon, the Indian Post Office Act of 1898 says in section 9(1) that the Central Government may make rules for providing for the registration of newspapers for transmission by inland post of "every publication consisting wholly or in great part of political or other news, or of articles relating thereto or other current topics, with or without advertisements". However, the grant of postal registration for concessional postage as a newspaper appears to be done as routinely and without application of mind as the allotment of registration numbers by the Press Registrar. All the four 'newspapers' mentioned in the preceding paragraph have been displaying, in addition to the registration number given to them by the Press Registrar, the postal registration number, for concessional postage, allotted to them by the Postal authorities.

137. We think that the best way out of this confusion is to define separately the terms 'daily newspaper', 'news magazine' and 'periodical'. A printed or cyclostyled work containing public news or comments on public news which is published every day or at least six days in a week may come within the category of 'daily newspaper'. Any other printed or cyclostyled periodical containing public news or comments on public news may come within the category of 'news magazine'. All printed periodical publications which do not contain public news or comments on public news to any significant extent may come under the term 'periodical'. We recommend enactment of separate sets of provisions for the registration of these three categories of publications in three separate registers to be maintained by the Press Registrar. Classification of a paper as 'daily newspaper' or 'news magazine' or 'periodical' by the Press Registrar should be done after one month from the date of publication

in the case of dailies and after the publication of two issues in the case of other periodicals.

138. The expression 'Registrar of Newspapers for India' wherever occurring in the Act should be substituted by the expression 'Press Registrar' which we think is more appropriate.

139. The Act should provide for the appointment of a person with suitable background or experience, and for a tenure of five years as Press Registrar. This will conduce to a professional approach and autonomous functioning.

140. When the recommendation contained in paragraph 137 is carried out, the entries in the existing register of newspapers will have to be transferred to the appropriate registers. The recommendations in the succeeding paragraphs have been made with reference to the existing provisions of the Act and will have to be suitably adapted so as to be in consonance with our recommendation for redefining the three categories of publications and maintenance of three separate registers.

141. It was brought to our notice that the procedure prescribed for making a declaration in respect of a newspaper under the Act entails inordinate delay and avoidable inconvenience to intending printers/publishers. Under the existing procedure, the intending printer/publisher has to appear in person or through an authorised agent before a specified Magistrate and make a declaration that he is the printer/publisher of the newspaper and indicate therein the title of the newspaper and also a precise account of the premises where the printing or publication is to be conducted. Then the Magistrate has to write to the Press Registrar in Delhi to ascertain whether the title proposed for the intended newspaper is free or is the same as or similar to that of any other newspaper published either in the same language or in the same State. The Press Registrar has to give a reply after verification of his records. On receiving clearance from the Press Registrar the Magistrate has to authenticate the declaration and send copies thereof to the intending printer/publisher and the Press Registrar. After receipt of the authenticated declaration the Press Registrar has to issue a Certificate of Registration. We were told that this process involved a delay of several months in some cases and the intending printers/publishers had to indefinitely keep their men and machinery idle. It was said that the requirement of personal appearance before a Magistrate to make the declaration was a relic of colonial rule which should be done away with under the present democratic set-up. Further, the requirement of prior authentication of declaration for publication of a newspaper was in the nature of a restraint on the freedom of the Press.

142. We have considered this question in all its aspects. We are convinced that the procedure requires revision. We suggest that the onus of getting clearance of the title should be thrown on the printer/publisher. The intending printer/publisher should ascertain from



the Press Registrar that the title of the newspaper intended to be published is not the same as or similar to that of any other newspaper and make a solemn affirmation in this behalf through an affidavit. The declaration required to be made under section 5(2) by the printer/publisher could also be made in the form of an affidavit and sent by registered post to the specified Magistrate. We are of the view that there is no need for personal appearance before the Magistrate for this purpose. After sending the declaration and the affidavit regarding title to the Magistrate by registered post, the printer/publisher should be free to commence the publication. Under the scheme of the Act, the requirement of prior authentication for commencing publication has been laid down to enable the Magistrate to ascertain from the Press Registrar whether the proposed title is free. Now, when the intending publisher testifies that the proposed title is free through an affidavit, there will be no reason for insisting on prior authentication for commencing publication. As it is, when once the title is reported to be free, the Magistrate has no discretion in the matter of authentication. We recommend that the District Magistrate should, after authenticating a declaration, send an attested copy to the Press Registrar.

143. We are recommending in a subsequent chapter the location of regional officers of the Press Registrar in different parts of the country who will maintain up-to-date copies of the Register of newspapers which will be of help to intending printers/publishers in ascertaining whether a title is free or not.

144. The recommended modification of the procedure for making declarations in respect of newspapers will involve amendment of the following provisions of the Act :

- (i) Proviso to section 6 and sub-section (2C) of section 5 will have to be deleted.
- (ii) A new sub-section will have to be inserted in section 5 with the provision that the intending printer/publisher should inquire and make sure from the Press Registrar that the proposed title of the newspaper is not the same as or similar to that of any other newspaper published either in the same language or in the same State.
- (iii) Sub-section (2) of section 5 will have to be modified by deleting words requiring personal appearance before the Magistrate for making a declaration and inserting the provision for making the declaration through an affidavit and sending it to the specified Magistrate by registered post accompanied by another affidavit solemnly affirming that the proposed title of the newspaper to be published is not the same as or similar to that of any other newspaper published either in the same language or in the same State.

- (iv) The words requiring personal appearance for making the declaration contemplated in section 8 will have to be deleted therefrom and the provision enabling making of the said declaration by an affidavit and sending the same by registered post to the specified Magistrate will have to be inserted in that section.

145. It was represented to us that the time limits prescribed for commencement of publication in sub-section (5) of section 5, viz., within six weeks of authentication of the declaration in the case of a newspaper to be published once a week or oftener and within three months in other cases, are impracticable. We recommend that sub-section (5) of section 5 may be amended so as to provide for a uniform time limit of six months in the case of all newspapers irrespective of their periodicity and a discretion in the Magistrate to extend the period for reasons to be recorded in writing. We are recommending discretion to be vested in the Magistrate in order to take care of situations where there is unavoidable delay in the procurement of machinery, securing power or for any other reasons.

146. It was pointed out to us that registration of a newspaper under the Act enables it to make a claim for certain facilities such as allotment of newsprint, concessions in postal and telegraph tariffs, etc., and therefore the time limit prescribed in sub-section (7) of section 5 should be made more stringent. Under this sub-section, at present, a declaration in respect of a newspaper ceases to have effect if it has ceased publication for a period exceeding twelve months. We recommend amendment of this sub-section on the following lines : In the case of a daily newspaper, the declaration should cease to have effect if its publication does not come out (except owing to strike, lock-out, go-slow, power-shortage or similar cause) for a month ; in all other cases, the time limit should be three months from the due date of the next issue, again excepting reasons beyond the publisher's control. The reasons should be recorded.

147. Publication of a newspaper in contravention of the Act or the rules made thereunder entails outright cancellation of the declaration under section 8B(i). There is another provision, viz., sub-section (1) of section 15, which prescribes a penalty of fine or imprisonment or both for the same offence. Sub-section (2) of section 15 also vests a discretion in the Magistrate to cancel the declaration in addition to the imposition of the penalty under sub-section (1) of section 15. We consider the provisions of sections 8B(i) and 15(2) to be too drastic and therefore recommend their deletion.

148. Under the existing provisions of section 8B the Magistrate is not bound to record his reasons for cancelling a declaration. We recommend that the wording of the section should be amended so as to ensure that the Magistrate records his reasons for cancellation of the declaration.

149. The publisher of every newspaper is bound to furnish to the Press Registrar under section 19E read with sections 19D and 19B(2) such returns, statistics

and other information as may be required. We found that information such as the number of persons employed, the capital invested, and the capacity of the machinery in use were not available in the records of the Press Registrar. These could be obtained by adding suitable entries in Form I of the Schedule to the Registration of Newspapers (Central) Rules, 1956.

150. Further, our examination of newspaper economics was severely handicapped by the non-availability of techno-economic data. This was felt acutely in the case of chain newspapers and multiple editions from different centres, as no edition-wise and publication-wise financial data were available. We recommend that if necessary the Companies Act and other Acts should be amended to make it obligatory for newspaper companies to maintain such data in proper form and make it available when required. Similarly, if necessary, section 19B(2) may be amended by addition of entries relating to techno-economic data in the list of particulars mentioned therein. Supply of techno-economic information by the publishers of newspapers to the Press Registrar not only in respect of individual publications but also in respect of separate editions of the same newspaper brought out from different centres, whether by conventional methods of printing or by facsimile reproduction, should be made obligatory.

151. Since advertisement revenue forms a vital component of the economy of newspapers, the Act should have a provision under which it should be possible for the Press Registrar to obtain regular information from the advertising agencies operating in the country. At present no reliable data are available with regard to the volume of advertisement revenue of newspapers as a whole, and we have had to content ourselves with approximate estimates.

152. We have noticed that a large number of newspapers do not furnish the required information to the Press Registrar. The percentage of defaulting newspapers went up from 24.4 in 1963 to 45.7 in 1971. It came down to 37 during 1972-75 but again went up to 53.1 during 1976-79. Appendix IV.2 gives detailed figures in this behalf for the years 1963 to 1979. We find that section 19K of the Act prescribes a penalty of fine upto Rs. 500 but the Press Registrar has found it highly impracticable to enforce this penal provision as he has to apply to a Magistrate, resulting in protracted proceedings. We recommend that the power to impose a fine under this section may be vested in the Press Registrar himself by a suitable amendment.

153. It was brought to our notice that about 90,000 titles of newspapers were blocked with the Press Registrar. One of the reasons for this state of affairs was said to be a judgement of the Mysore High Court (in W.P. No. 1054 of 1965 : *The Printers (Mysore) Private Ltd. v. Union of India and others* decided on 14th December 1965, holding that the right to publish a newspaper under a particular name is property and is subject to the ordinary law of property. Consequently upon this it has been assumed by the Press Registrar

that cancellation of a declaration under section 8B does not extinguish the right of a person to the 'property' inherent in the title of the newspaper and therefore the title cannot be declared to be free. We recommend that in order to clear this confusion and to put the matter beyond all doubt a specific provision may be incorporated in the Act providing that whenever a declaration in respect of a newspaper ceases to have effect under any provision of the Act, or becomes void under any provision of the Act, or is cancelled under any provision of the Act, the right to publish under a particular title automatically comes to an end and the title of such a newspaper becomes free. Any intending publisher can file a declaration claiming that title. However, in the case of cessation of publication of a newspaper, its title should not be available to a new claimant before the expiry of a period of one year from the date of cessation of its publication.

154. Another reason for the blockage of a large number of titles has been the practice of clearing a title even before a declaration is filed. This is not warranted by the provisions of sections 5(2) and (6) as they exist now. These provisions contemplate a declaration to be filed before the Magistrate first, then an inquiry by the Magistrate from the Press Registrar about the proposed title being free and finally its authentication after obtaining clearance of title from the Press Registrar. It appears that in a large number of cases the intending publishers have sought and obtained clearance of the titles proposed by them without filing declarations. Having already cleared the title in favour of an intending publisher the Press Registrar has been treating the title as not being free so that any other intending publisher is precluded from claiming it. We wish to make it clear that mere clearance of a title by the Press Registrar does not confer any right to the title under the Act unless a proper declaration is made and authenticated. Therefore the Press Registrar should treat those titles in respect of which valid declaration has not been filed as being free in spite of the fact that they have been cleared in the past in favour of intending publishers.

155. Section 19A gives the impression that 'Registrar of Newspapers for India' and 'Press Registrar' are two different entities. It is true that in section 1 'Press Registrar' has been defined to mean 'Registrar of Newspapers for India', but we think that it is desirable to use one expression only in section 19A. This suggestion would be automatically implemented if our suggestions in para 138 *ante* are carried out.

156. The provisions of the Act are referred to at some places as 'rules', e.g., in sections 5, 15, etc., and at some other places as 'sections', e.g., in sections 6, 8, etc. This anomaly should be removed by uniformly referred to the provisions of the Act as 'sections' and not 'rules'.

157. Section 8C of the Act makes provision for the constitution by the Central Government of an Appellate Board to consider appeals against the order

of a Magistrate refusing to authenticate a declaration under section 6 or cancelling a declaration under section 8B. Although, in terms of our recommendations, the necessity of authentication prior to publication is being dispensed with, an Appellate Board will still be necessary to consider appeals against the classification of a paper, arbitrary cancellation of declaration on any other grievance arising out of the Act. Section 8C, in fact, stands amended by section 27 of the Press Council Act, 1978 inasmuch as the Appellate Board has now to be nominated by the Press Council of India. We recommend amendment of section 8C of the PRB Act and deletion of section 27 of the Press Council Act, 1978.

### (9) POST AND TELEGRAPH ACTS

#### *Section 5(2) of the Indian Telegraph Act, 1885*

158. Section 5(2) of the Telegraph Act provides :

“On the occurrence of any public emergency or any officer specially authorised in this behalf by the Central Government or a State Government may, if satisfied that it is necessary or expedient so to do in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign states or public order or for preventing incitement to the commission of an offence, for reasons to be recorded in writing, by order, direct that any message or class of messages to or from any person or class of persons, or relating to any particular subject, brought for transmission by or transmitted or received by any telegraph, shall not be transmitted, or shall be intercepted or detained, or shall be disclosed to the Government making the order or an officer thereof mentioned in the order :

“Provided that press messages intended to be published in India of correspondents accredited to the Central Government or a State Government shall not be intercepted or detained, unless their transmission has been prohibited under this sub-section.”

Although there are legislative provisions in U.K. and U.S.A. for interception of postal packages they have no provision for interception of telegraphic messages analogous to the one in section 5 of the Indian Telegraph Act. We do not think that, merely for this reason, the Government should not have the power of intercepting telegraphic messages in a public emergency or in the interest of public safety. Public emergency mentioned in the sub-section need not be confined to emergency arising from war or external aggression or armed rebellion justifying the proclamation of an emergency under Article 352 of the Constitution. An emergency may arise in a locality which is likely to have its repercussions in other parts of the country. There can be a doubt that circulation of false rumours or exaggerated statements concerning certain incidents

are the main causes of public disturbances and their continuance and spread to other areas.

159. The facility of telegraphic communication is widely used in India for transmission of messages meant for publication in newspapers. Although the power of interception provided in section 5 may have been misused in certain cases, we cannot ignore the fact that false or distorted news has been transmitted through telegraphic messages in several cases. This is the reason why we feel that this power must be vested in the Government to be exercised in appropriate cases in the interest of maintaining and ensuring public safety. No newspaper can claim access to or the right to publish news which is likely to endanger the safety of the community at large. In a vast country like India, a power of this nature cannot be exercised solely by Government, i.e., by the responsible Minister concerned. The power will necessarily have to be delegated to local officers. But the delegation of power must be for short periods only and clear instructions should be issued by the Government to the delegated authorities to prevent misuse of the power.

160. It may be noticed that the public emergency mentioned in the sub-section is not an objective fact. Some public functionary must determine its existence and it is on the basis of the existence of a public emergency that an authorised official should exercise the power of withholding transmission of telegrams. We think that the appropriate government should declare the existence of the public emergency by a notification warranting the exercise of this power and it is only after the issue of such a notification that the power of withholding telegraphic messages should be exercised by the delegated authority. When such a notification is issued, the principal officer of the telegraph office can be required to submit to the District Magistrate, whom we consider to be the proper person to be the delegate for exercising this power, such telegrams brought for transmission which are likely to be prejudicial to the interest sought to be protected by the sub-section. Thereupon the District Magistrate should pass an order in writing withholding or allowing the transmission of the telegram. We are suggesting the safeguard of a prior notification declaring the existence of a public emergency because the power of interception is a drastic power and we are loath to leave the determination of the existence of a public emergency in the hands of a delegate.

161. The provisions of section 5(2) do not violate the freedom of speech and expression under Article 19(1)(a) as the power can only be exercised for the purposes mentioned in it and those purposes are covered by the provisions of Article 19(2). However, if in a particular case, a telegraphic message is intercepted, detained or not transmitted without reference to these purposes, the exercise of the power would be clearly unjustified and liable to be struck down as violative of Article 19(1)(a).

162. There can possibly be no previous notification by the appropriate government when the power of interception is to be exercised in the interest of public

safety. We are of the view that whenever the power is exercised in the interest of public safety, it should, as far as possible, be exercised by the concerned Minister of the appropriate government for one month at a time extendable by Government if the emergency continues. However, in exceptional circumstances the power can be delegated to the District Magistrate.

163. We also think that as soon as an order is passed by the District Magistrate withholding the transmission of a telegraphic message, it should be communicated to the Central or State Government, as the case may be, and also to the sender and the addressee of the telegram. The text of the order should be placed on the table of the respective State legislatures after three months. We recommend that, as suggested by the Press Council of India in its annual report covering 1969, the officer in charge of a telegraph office should maintain a register giving particulars of the time of receipt, the sender and addressee of every telegram which he refers to the District Magistrate with recommendation of its withholding. Similarly, the District Magistrate should maintain a register of the time receipt, content and addressee of each telegram and record his decision thereon, together with the time of the decision. Data of this nature will help courts, if called upon, to determine the presence or absence of *mala fide* in the withholding of telegrams.

#### *Tapping of Telephones*

164. It is felt in some quarters, not without reason, that not infrequently the Press in general and its editorial echelons in particular have to suffer tapping of telephones.

165. Tapping of telephones is a serious invasion of privacy. It is a variety of technological eavesdropping. Conversations on the telephone are often of an intimate and confidential character. The relevant statute, *i.e.*, Indian Telegraph Act, 1885, a piece of ancient legislation, does not concern itself with tapping. Tapping cannot be regarded as a tort because the law as it stands today does not know of any general right to privacy.

166. This is a hardly satisfactory situation. There are instances where apprehensions of disclosure of sources of information as well as the character of information may result in constraints on freedom of information and consequential drying up of its source. We, therefore, recommend that telephones may not be tapped except in the interest of national security, public order, investigation of crime and similar objectives, under orders made in writing by the Minister concerned or an officer of rank to whom the power in that behalf is delegated. The order should disclose reasons. An order for tapping of telephones should expire after three months from the date of the order. Moreover, within a period of six weeks the order should come up for review before a Board

constituted on the lines prescribed in statutes providing for preventive detention. It should be for the Board to decide whether tapping should continue any longer. The decision of the Board should be binding on the Government. It may be added that the Minister or his delegate will be competent to issue a fresh order for tapping of the telephone if circumstances call for it. The Telegraph Act should contain a clause to give effect to this recommendation.

#### *Section 26 of the Indian Post Office Act, 1898*

167. We fail to see why the words "in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of an offence" have not been incorporated in section 26 of the Post Office Act when they form part of section 5(2) of the Telegraph Act. It was to put section 5(2) of the Telegraph Act beyond challenge on the scope of violating Article 19(1)(a) that these words were inserted in that sub-section. We think that similar considerations should have dictated insertion of these words in section 26 of the Post Office Act and recommend that this might be done now.

168. Our recommendations with regard to the exercise of the power under this section are the same as those already made with regard to the exercise of the power under section 5(2) of the Telegraph Act.

169. In the light of the above recommendations appropriate amendments may be made in the provisions of section 5(2) of the Telegraph Act and section 26 of the Post Office Act.

#### (10) INDUSTRIES (DEVELOPMENT AND REGULATION) ACT, 1951

170. Section 15 of the Industries (Development and Regulation) Act provides that the Central Government may cause investigation to be made into a scheduled industry or industrial undertaking if, *inter alia*, the Government is of the opinion that "any industrial undertaking is being managed in a manner highly detrimental to the scheduled industry concerned or to public interest". After such investigation, the Central Government is empowered under Section 16 to issue directions regulating production and pricing and, under Section 18-A, to assume management or control of an industrial undertaking in certain cases. Section 18A(A), inserted in 1971, gives the Central Government power to take over industrial undertakings without investigation under certain circumstances.

171. An amendment to the Act, which received the President's assent on 31st March, 1979, included a number of additional industries in the First Schedule of the Act, among them "printing including litho printing industry". We recommend the addition after this of the words : "other than printing presses utilised mainly for printing newspapers".

## V. PRESSURES ON THE PRESS

We have discussed in the preceding Chapter the restrictions on freedom of expression that could be imposed under laws enacted in terms of Article 19(2) of the Constitution. In addition to such permissible restrictions, newspapers are sometimes subjected to the following kinds of pressure from different sources :

- (i) Physical attacks on the editor or the offices of the newspaper or its employees by mobs feeling aggrieved by the publication of particular items of news or views in a newspaper, or, by mobs incited against a newspaper by political groups;
- (ii) Obstruction to the expression of political opinion not to their liking by trade unions of newspaper employees;
- (iii) Interference by advertisers seeking to influence the expression of opinion in a newspaper on political or economic matters or on issues of concern to consumers;
- (iv) Interference in the editorial autonomy by proprietors with a view to promoting their own business interests or those of their fellow businessmen, or on behalf of persons or political parties for the time being in power; and
- (v) Interference by the functionaries of the Government, through selective and politically motivated exercise of powers under the law, or through extra-legal actions such as discrimination in the selection of newspapers for advertisements and/or in the rates fixed for such advertisements; or delay in payment of advertisement dues; or denial of facilities for obtaining machinery or other inputs necessary for newspaper production or wilful obstruction to the distribution of copies, or denial or suspension of services such as supply of water or electricity.

Instances of above kinds of pressure were narrated in the memoranda and evidence received by the Commission.

### *Mob Pressures*

2. Recently there has been a tendency on the part of some sections of the public, especially students, to administer threats to, or engage in violent physical attacks on, the staff or property of a newspaper, apparently feeling aggrieved by a report or comment appearing in its columns. Recent instances of this nature from different parts of the country include : abusive letters and threats addressed to the editor of the *Indian Express*, Delhi, in March 1979, for

publishing reports which exposed large-scale copying in the examinations conducted by Meerut University; mob attack on the news editor and staff of the *Times of India* in Bombay on 8th September, 1979 in protest against a report on the arrest of a city priest for alleged smuggling; the attack on three newspaper offices in Cuttack, in March 1981, by a group of young men including students of a local medical college, for publishing a report, issued by an Indian language news agency, about the alleged molestation of a woman student of the medical college; the gherao of four newspaper offices in Bangalore in September 1980, reportedly organised by supporters of the ruling party in the State in protest against the alleged misreporting of an incident involving the Karnataka Chief Minister; the gherao of the offices of *Hind Samachar* and allied publications in Amritsar, during July 1981, and the burning of the effigy of the chief editor of the publications, Lala Jagat Narain, who was subsequently murdered on 9th September, 1981.

3. The Press Council of India, in a statement issued on 2nd May, 1981, emphasised the necessity for maintaining objectivity and accuracy in reporting news and pointed out that even if a grave error crept into the reportage of news, it would be destructive of freedom of the Press if an aggrieved party takes the law into its own hands. It suggested that the aggrieved parties could approach the Press Council for obtaining redressal of grievances and vindication of rights in case of any breach of established standards of journalistic ethics, propriety and good taste.

4. We are of the view that public opinion should assert itself to restrain misguided elements among the public from exercising their disagreement with newspaper reports through physical violence against the premises or property of the newspaper or its editor or employees rather than sending a rejoinder for publication or making a complaint to the Press Council or availing of a remedy provided under the law of the land.

### *Pressure from trade unions*

5. The editor of a leading English daily of Delhi alleged that during the second half of 1975, the employees working in its printing press began to withhold editorial matter which was not to their liking from being sent to the composing room. The Commission was told by two witnesses in Calcutta that on 23rd April, 1979 the workers of *Jugantar* belonging to a trade union sympathetic to the ruling Left Front prevented the paper from coming out as it contained an article critical of the State Government. More recently, during 1981, it has been alleged that trade unions of employees of *Arya Varta* and *Indian Nation* in Patna, and of the *Indian Express* and allied

publications in Bombay, have obstructed the printing and distribution of the newspapers, allegedly under incitement by politicians in power.

6. Political parties and trade union leaders should not for political reasons utilise their following among newspaper employees or hawkers to hinder the publication and/or distribution of any newspaper. We do not refer here to the normal processes of collective bargaining.

#### *Advertisers' pressure*

7. It has been alleged not only in India but in many countries where private enterprise in industry and commerce is allowed, that commercial advertisers influence both the news and views columns of newspapers. However, not much specific evidence of such pressure came before us. Some witnesses said that small newspapers were more vulnerable to pressure from commercial or other local advertisers than big newspapers.

8. One of the few instances of pressure by advertisers which the Commission was told of, pertains to a Bengali daily brought out by the C.P.I. Its editor said that at different points of time he refused certain advertisements from a leading shoe manufacturing company and some undertakings of the Central and State Government against strikes by their workers or against the working class in general. According to him, this resulted in stoppage of other advertisements from them which were due under the annual contracts entered into earlier with them.

9. On the other hand it was claimed by the Public Relations Manager of a large industrial undertaking that advertisers do not attempt to exert improper influence. He said that members of the Public Relations Society of India observe a code of ethics which debars the routing of material on company news through the advertising department of a newspaper.

#### *Pressure by or through proprietors*

10. An example of alleged pressure by the proprietors of a big newspaper to doctor the publication of news unfavourable to themselves is the treatment of the Vivian Bose Commission's Report on Dalmia-Jain enterprises in January 1963, which is referred to by us in the Chapter on "The Press as a Public Utility".

11. Proprietors sometimes seek to exert pressure on behalf of their fellow-businessmen. It was alleged by a former editor of a leading English morning daily of Delhi that the Chairman of the newspaper company tried during 1973 to interfere with the publication of reports regarding legal proceedings involving another businessman in an evening newspaper brought out by the same undertaking.

12. It is also alleged that proprietors interfere on behalf of governmental authorities. In the context of the pervasive governmental regulation of industry and

business in a planned economy, it is said that newspaper proprietors with primary interest in other businesses cannot take the risk of offending those in authority. It was alleged before the Press Council during 1974-75 that the services of the editor of a leading English daily published from the capital were sought to be terminated as his writings in the newspaper had caused offence to those in political authority. However, the Press Council—though its competence to inquire into the matter was upheld by the Delhi High Court in a case that we refer to in Chapter X in the section on Internal Relations—could not go into this matter as it was abolished at the end of December 1975.

13. As against the view that industrialist-owners of newspapers are vulnerable to pressure from the functionaries of the Government, there is also the opposite view that there is greater editorial autonomy in newspaper owned by proprietors who have other business interests than in newspapers owned by proprietors who have no such interests: "I see more constraints on the editor", one witness told us, "in newspapers where other financial interests are not involved. There, the proprietor really sits on the head of the editor".

14. We are of the view that editorial functioning should be insulated from proprietorial pressure irrespective of whether such pressure is exerted on behalf of private business interests or on behalf of governmental authorities. Our recommendations in this regard are given in the Chapter on "The Press as a Public Utility".

#### *Governmental pressures*

15. Instances of a wide range of governmental pressures were cited in the course of evidence before us. There have been allegations of governmental inaction during outbreaks of mob violence against newspaper offices and staff, e.g., during the gherao of Bangalore newspapers in September 1980. All such allegations have to be investigated by the Press Council and appropriate action recommended against those found guilty of inaction. Public opinion should assert itself, in the legislatures and through the Press, to impress upon all concerned the need for observing the distinction between party and Government and of fulfilling the paramount task of maintaining law and order.

16. Government is a major advertiser and, by far the greater number of complaints pertaining to advertising voiced during evidence before us, as well as those recorded in the Annual Reports of the Press Council, relate to pressure exerted by the State and Central Governments as advertisers. We have made recommendations designed to insulate governmental advertising from partisan considerations in the Chapter on "Official Agencies and the Press".

17. There has also been criticism of the manner in which accreditation facilities are conferred or withheld,



specially by the State governments, as reward or punishment. Recommendations in this regard are made by us in the Chapter on "Official Agencies and the Press".

18. We have been distressed to hear and read of instances of exercise of extra-legal methods of coercion employed by governments to silence or tame unfriendly sections of the Press. On a complaint made by the *Tribune*, Chandigarh, during May 1970 that taxis and delivery vans carrying copies of the newspaper to various towns in Haryana and to Delhi had been impounded on flimsy technical grounds by the Haryana authorities, the Press Council held : "We have found that the checking of the transport vehicles at Ambala and Rohtak was part of the plan of the Government to impede the circulation of the *Tribune* and cause it material loss". The Press Council also upheld two other allegations, namely stoppage of advertisements to the *Tribune* and stoppage of subscription to the paper by municipal authorities in Haryana, in retaliation to the editorial policy of the newspaper.

19. According to an article in *Indian Press* of July 1974, the State Electricity Board of Punjab cut off electric supply to the *Hind Samachar* group of papers, ostensibly for the reason that more than the allotted quota of power was being consumed, and the publishers had to run the printing machine for ten days by taking power from an agricultural tractor. Shri Romesh Chander, Managing Editor of *Hind Samachar* told us that other printing presses, under pressure from the government, were unwilling to print the newspaper. Electric supply to many of the capital's newspapers located on Bahadur Shah Zafar Marg, we were told, was cut off during the night of 25th-26th June 1975, when internal emergency was proclaimed.

20. Instances of selective invocation of provisions of various laws relating to the Press were cited by

witnesses. The complaints, as in the case of official advertisements, referred to governments of different political complexions. It was alleged by the Indian Express Group of newspapers that the Inquiry Order of 2nd December 1975 under the MRTP Act, which was withdrawn by the Janata Government on 9th December 1977, was politically motivated. Another instance that was cited was the show-cause notice for the appointment of Government directors which was issued to the *Statesman* towards the close of 1975 and which was withdrawn after about a year. The Associated Journals, Lucknow, publishers of *National Herald* and allied publications, complained that the Janata Government harassed them in various ways during the years 1977-79, including obstructions in the way of letting out portions of premises owned by the newspaper undertaking, and initiation of proceedings under the Employees State Insurance Act and Industries Development and Regulation Act.

21. Partisan and politically motivated invocation of the provisions of laws hardly promotes respect for the rule of law. It should be realised that fair and even-handed implementation of laws is essential for the independence of newspapers.

#### *The Enemy Within*

22. If the Press is to play the role envisaged by us in Chapter III, it should be able to resist not only external pressure but also inducements which would undermine its independence from within. Journalists should be on guard against the temptation to enjoy favours, whether from Government authorities, employers, advertisers or others. We refer in the Chapter on "Official Agencies and the Press" to availing of Government accommodation on concessional terms by journalists, and to the disturbing fact that some State Governments do not bother to collect even the concessional rent and the journalists concerned are happy not to pay.



## CHAPTER VI

### RIGHT TO PRIVACY

We are required by item 3 of our Terms of Reference to "examine and make recommendations on the Constitutional and legal safeguards to protect the citizen's right to privacy."

#### *Existing Position under the Constitution*

2. There is no specific provision in our Constitution conferring a right to privacy on the citizens

3. In *Kharak Singh v. the State of U.P.*<sup>1</sup>, Subba Rao, J., (as he then was) made the following observations in the context of 'personal liberty' under Article 21 :

".....It is true our Constitution does not expressly declare a right to privacy as a fundamental right, but the said right is an essential ingredient of personal liberty. Every democratic country sanctifies domestic life ; it is expected to give him rest, physical happiness, peace of mind and security. In the last resort, a person's house where he lives with his family, is his 'castle', it is his rampart against encroachment on his personal liberty..... If physical restraints on a person's movements affect his personal liberty, physical encroachments on his private life would affect it in a larger degree. Indeed nothing is more deleterious to a man's physical happiness and health than a calculated interference with his privacy."

4. In *Govind v. M. P. State*<sup>2</sup>, the petitioner alleged that on the basis that he was a habitual offender, the police had opened a history sheet against him and put him under surveillance. He submitted that the police were making domiciliary visits both by day and night at frequent intervals and that they were secretly picketing his house. He contended that these actions of the police were violative of the fundamental right guaranteed to him under Articles 19(1)(d) and 21 of the Constitution. In this case the Supreme Court observed :

"Rights and freedoms of citizens are set forth in the Constitution in order to guarantee that the individual, his personality and those things stamped with his personality shall be free from official interference except where a reasonable basis for intrusion exists....."

"The right to privacy in any event will necessarily have to go through a process of case-by-case development. Therefore even assuming that the right to personal liberty, the right to move freely throughout the territory of India and the freedom of speech create an independent right of privacy as an emanation from them, which one can characterize as a fundamental right, we do not think that the right is absolute."

5. From the two cases referred to above it cannot be said that the Supreme Court has categorically recognised a general right of privacy as a fundamental right even as an emanation from other fundamental rights guaranteed to the citizen under the Constitution.

#### *Right not Specifically recognised in any existing Law*

6. The right of privacy, as such, does not also find a place in any law of the country. No doubt, the laws relating to trespass, defamation, criminal breach of trust, copyright, etc., protect certain aspects of privacy indirectly.

#### *Scope of our inquiry*

7. As 'Press Commission' we are concerned only with intrusions of privacy of citizens by the Press. The larger question whether it is necessary to incorporate the citizen's right to privacy in the Constitution or in any other enactment should appropriately be examined by the Law Commission.

#### *The concept of the right*

8. The word 'privacy' as generally understood means seclusion, the state of being withdrawn from society, being away from others, alone and undisturbed. It also means secrecy and avoidance of publicity. The right to privacy has as its basis the inherent uniqueness of every human being and his or her right to private life free from unwanted intrusion and disclosure. This right was forcefully articulated for the first time in U.S.A. by Warren and Brandeis in their famous article published in 1890 in the following words :"

"Once a civilisation has made a distinction between the 'outer' and the 'inner' man, between the life of the soul and the life of the body, between the spiritual and the material, between the sacred and the profane, between the realm of God and the realm of Caesar, between Church and the State.

1. (1964) 1 S.C.R. 332.

2. (1975) 3 S.C.R. 946.

3. "The Right of Privacy", 4 Harvard Law Rev. 193.

between rights inherent and inalienable and rights that are in the power of government to give and take away, between public and private, between society and solitude, it becomes impossible to avoid the idea of privacy—by whatever name it may be called—the idea of a private space in which man may become and remain ‘himself’.”

Since then, others have joined in enunciating the right in eloquent terms :

“The man who is compelled to live every minute of his life among others and whose every need, thought, desire, fancy or gratification is subject to public scrutiny, has been deprived of his individuality and human dignity as such. Such an individual merges with the mass. His opinions, being public, tend never to be different ; his aspirations, being known, tend always to be conventionally accepted ones, his feelings, being openly exhibited, tend to lose their quality of unique personal warmth and to become the feelings of every man. Such a being, although sentient, is fungible ; he is not individual.”<sup>(4)</sup>

“Democracy assumes that the individual citizen will actively and independently participate in making decisions and in operating the institutions of the society. An individual is capable of such a role only if he can at some points separate himself from the pressures and conformities of collective life.”<sup>5</sup>

Putting the matter very broadly, the interest in privacy is that in maintaining one's person, personality or individuality inviolate. While discussing privacy we have to keep clearly in mind the distinction between the notion of the interest in ‘privacy’ on the one hand, and such interests as those in ‘secrecy’ ; ‘confidentiality’ and ‘reputation’ on the other. Whilst these notions overlap and the legal protections for secrecy, confidentiality and reputation have indirect consequences for the protection of privacy, it is vital not to confuse the notions. They have different aims, and, so far as the law is concerned, are focused on different targets.<sup>(6)</sup> It is also important to distinguish the ‘interest’ in privacy from the concept of a ‘right’ to privacy. For the purpose of the law, it is only appropriate to speak of a ‘right’ to privacy where the legal system affords an enforceable remedy for interference with the interest in privacy.

#### *The Position in U.S.A.*

9. The Supreme Court of U.S.A. held that privacy was a fundamental personal right emanating from the

4. Bloustein : “Privacy is an Aspect of Human Dignity. An Answer to Dean Prosser”, (1964) 39 NYULR. 962, 1003.

5. Emerson : The System of Freedom of Expression, (1970), 546.

6. Wacks : ‘The Poverty of Privacy’, (1980) 96 LCR 3.

totality of the constitutional scheme. The broadest definition of privacy was given by Justice Brandeis in *Olmstead v. U.S.*<sup>7</sup> :

“The makers of our Constitution conferred as against the Government, the right to be let alone, the most comprehensive of rights and the right most valued by civilised man”.

It is obvious that a legal right to privacy as broadly framed as this would be enormous in scope. Today, violation of privacy has been recognised as a tort in U.S.A. and there is a series of decisions of the courts at various levels. There is a school of thought of which Dean Prosser is the most outstanding spokesman, that privacy is not an independent value at all but a composite of interest in reputation, emotional tranquility and intangible property. The view of Dean Prosser has been adopted by Salmond in his “Law of Torts”<sup>(8)</sup> although English Common Law does not recognise invasion of privacy as a tort in all cases in which the American courts do. According to Dean Prosser, the four distinct torts, which are discovered in the cases decided by American Courts are :<sup>(9)</sup>

- (i) intrusion upon a person's solitude or seclusion or into his private affairs ;
- (ii) public disclosure of embarrassing facts of a person's private life ;
- (iii) publicity which places an individual in false light in public eyes ; and
- (iv) appropriation to a person's advantage of another's name or likeness.

Appropriation of a person's name or likeness to another's advantage really involves commercial exploitation of that person's identity. The authors of *American Jurisprudence*, a national Legal Encyclopaedia, commented, while attempting to assess the nature of the right, that the kinds of cases in which privacy had been recognised varied so widely that it could be concluded that this right was nothing more than a catch-all to take care of the outer fringes of tort and contractual liability. There has been criticism of the American concept of privacy in its broadest sense. The Younger Committee in England observed that if there were to be a right of privacy it should not be synonymous with the right to be let alone. An unqualified right of this kind would be unrealistic and incompatible with the concept of society implying a willingness not to be let entirely alone.

#### *The position in other Countries*

10. In France, beginning in 1858, a right of privacy has been built up by a process of interpretation of Article 1382 of its Civil Code. It introduced a new

7. (1928) 277 U.S. 438, 478.

8. 15th Ed., pp. 44—46.

9. Prosser : ‘Privacy’ 48 Cal. L. Rev 383 (1960) & W. Prosser : Handbook of the Law of Torts, Section 17 (Privacy), 4th Ed. (1971).

Article namely Article 9 in 1970 specifically declaring that everyone has the right to respect for his private life.<sup>(10)</sup>

11. In the Federal Republic of Germany, a strong body of case law establishing a right to privacy has been developed under the provisions of Article 823(1) of its Civil Code.<sup>(11)</sup>

12. U.S.A. was the first country to enact specific legislation on various aspects of privacy covering its invasion by modern technological devices. Canada, Scandinavia and European countries have legislation on similar lines dealing with control of collection and use of computer data relating to private individuals.<sup>(12)</sup> In several Australian States, legislation has been enacted to give protection to certain aspects of privacy such as surveillance devices, data banks, credit reporting etc.

#### *Right internationally recognised*

13. The right to privacy received international recognition in 1948. Article 12 of the Universal Declaration of Human Rights states :

"No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Every one has the right to the protection of the law against such interference or attacks."

14. Article 8 of the European Convention on Human Rights adopted in 1953 stated :

1. "Everyone has the right to respect for his private and family life, his home and his correspondence";
2. "There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others."

The General Assembly of the United Nations in Article 17 of the International Covenant of Civil and Political rights reiterated the right to privacy enunciated in Article 12 of the Universal declaration of Human Rights.

10. Younger Committee Report on Privacy (1972), Comnd. 5012, Para 94.

11. *ibid* Para 95.

12. Report of the Lindop Committee on Data Protection, Comnd 7341 (1978).

#### *Attempts at Legislation in other Countries*

15. A valuable report was submitted to the Australian Parliament by Professor Morison on the subject of privacy<sup>(13)</sup>. Speaking about the American experience he said that the ordinary hazards of litigation inseparable from tort actions were increased by the vagueness of criteria with which the Courts were called upon to work in privacy cases. What constituted violation of privacy had to be decided on the facts of each case and fundamental problems about the criteria to be applied continued to arise even after hundreds of such cases were decided. According to him there was no prospect of uncertain criteria being replaced by certain criteria.

16. It is significant that no generalized right of privacy has been recognised in the common Law of U.K. although there have been several attempts at legislation on the subject of privacy.

17. Lord Mancroft's Bill of 1981 was specifically concerned with invasions of privacy by the Press, film, radio and television. It was designed to strike a balance "between the essential freedom of the Press and the equally essential rights of the individual". The Bill did not define 'privacy' but proposed to create a new actionable right in the following terms :

"A person shall have a right of action against any person who, without his consent, publishes of or concerning him in any newspaper or by means of any cinematograph exhibition or any television or sound broadcast any words relating to his personal affairs or conduct if such publication is calculated to cause him distress or embarrassment."

The defences provided to the action were :

- (i) that the defendant did not intend to refer to the plaintiff;
- (ii) that there was a privilege for the communication according to defamation principles; and,
- (iii) that the plaintiff was the subject of reasonable public interest in one of a number of ways specified in broad terms.

However, the defences were to be invalidated if the matter was obtained by threats or in a way calculated to cause embarrassment or distress to the plaintiff or his family. The Bill provided a remedy in damages. The Government declined to support the Bill on the ground that it was not possible to define in an Act of Parliament the circumstances in which a defence based on public interest was to be available without imposing a new and severe restriction on publication

13. Morison, W. L. : Report on the Law of Privacy (Feb. 1973) Parliamentary Paper No. 85, published by the Parliament of Commonwealth of Australia.

generally and the freedom of the Press. It was not thought fit to leave it to the courts to decide in what circumstances a newspaper could successfully raise a defence of 'public interest' as it would confer on the courts so wide a discretion as to constitute them, in this field, virtual censors of the Press.

18. Alexander Lyon's Bill of 1967 defined the right to Privacy as :

"the right of any person to preserve the seclusion of himself, his family or his property from any other person."

Defences comprised :

- (i) absence of knowledge of violation;
- (ii) fair comment on a subject of public interest through various media;
- (iii) necessary conduct of an occupation with apparently unobjectionable material;
- (iv) consent; and
- (v) legal authority.

The remedies provided were : damages and injunction. The Bill was, however, withdrawn.

19. The comprehensive Walden Bill of 1969 was inspired by the report and proposals of a Committee of 'Justice', the United Kingdom Section of the International Commission of Jurists. The right of privacy was defined in this Bill as :

".....the right of any person to be protected from intrusion upon himself, his home, his family, his relationships and communications with others, his property and his business affairs."

This was particularised as 'including' intrusion by :

- (a) spying, prying, watching or besetting;
- (b) the unauthorised overhearing or recording of spoken words;
- (c) the unauthorised making of visual images;
- (d) the unauthorised reading or copying of documents;
- (e) the unauthorised use or disclosure of confidential information, or of facts (including his name, identity or likeness) calculated to cause him distress, annoyance or embarrassment, or to place him in a false light;
- (f) the unauthorised appropriation of his name, identity or likeness for another's gain.

The protection was restricted to "any substantial and unreasonable infringement" only. Defences comprised :

- (i) absence of knowledge of infringement where reasonable care had been taken;
- (ii) consent;
- (iii) reasonable grounds for belief that publication was in the public interest;
- (iv) reasonable necessity for the protection of the plaintiff or others; and
- (v) legal authority.

This Bill was also withdrawn.

20. The Bill prepared in 1971 by the 'Justice' Committee was couched in terms similar to the Walden Bill referred to above except that a stricter defence in public interest was envisaged.

21. Another Bill prepared in 1971 by the National Council of Civil Liberties (N.C.C.L.) defined the right to privacy as including :

"The right of any person (not being a body corporate) to—

- (a) *solitude*, being his right to have his physical senses unmolested in any private place;
- (b) *intimacy*, being his right to enjoy in any private place the close familiarity of his family, work group or social group;
- (c) *anonymity*, being his right to prevent undue publicity of himself;
- (d) *reserve*, being his right to prevent psychological investigation of his mind or brain;
- (e) *privacy of his personal information*, being his right to prevent the reading, copying or reordering of any information kept by him or by any other person which expressly or by necessary implication refers to him."

'Unreasonable behaviour' was defined more specifically as including :

- (a) Deliberately spying on, or peeping into any house, grounds or premises or part thereof except from any public place;
- (b) eavesdropping at any place and by whatever means (including the use of any sound recording device) on the private conversation of the plaintiff held in any private place;

- (c) taking or publicising any photograph, motion picture or other likeness of the interior of any private room, house, grounds or premises or any part thereof belonging to or occupied wholly or partly by the plaintiff or of the plaintiff herein;
- (d) taking or publicising any photograph, motion picture or other likeness of the plaintiff, or by publicising by whatever means any description of the plaintiff (including his name or address) whilst he be a patient in any hospital;
- (e) behaving in any other manner calculated to unreasonable infringement of the right of privacy."

The remedies provided were limited to damages and injunctions. This bill specifically excluded the media from its operation.

22. It is worthwhile to note the comments of Professor Morison in relation to these Bills. He observed :

"The Lyon Bill, the Walden Bill, the N.C.C.L. draft, the 'Justice' draft, all require the court to determine whether the infringement of privacy is unreasonable.... This means that the court is required to evaluate at large, at least in the first instance, the plaintiff's and defendant's interests in their mutual correlation. While it may be satisfactory to require the court or a jury to do this in cases where there are established community standards, it is perhaps otherwise in an area, where the community is rather struggling to establish stable standards against a background of rapid social and technological change. A court may be hamstrung when seeking to determine an important and novel social question *ad hoc* by its severely limited powers of investigation."

He called attention to another aspect of the matter :

"In tort the community leaves the initiative to take legal action to protect his rights to the injured party.... In the area of privacy the possibility has to be recognised that persons of power, influence and wealth may take advantage of their wealth to institute litigation to preserve their power and influence against the legitimate activities of others. At the other end of the scale persons with nothing to lose may use the law to harass those who may be ruined by being unsuccessful defendants in private litigation. The ordinary citizen may be unready to resort to litigation at all unless sure of success and perhaps, even if he is sure of success, where the defendant may be unable to pay his costs. These are all consequences of the heavy expenses of private litigation

and apart from expense, a prospective plaintiff must anticipate that resort to the court will in itself involve a quite traumatic abandonment of his privacy to remedy the infringement of it...."

Morison also expressed the view that the remedy of 'damages' for infringement of privacy was not appropriate inasmuch as the interests sought to be protected by the right to privacy were intangible and hence incapable of being reduced to monetary terms.

#### *Committee on Privacy in U.K.*

23. The Younger Committee in U.K. submitted a comprehensive report on privacy in 1972. The Committee argued that it was appropriate to narrow the definition of privacy. It rejected the need for a general right to privacy on the ground that it would introduce uncertainties into the law, the repercussions of which upon free circulation of information were difficult to foresee in detail. The Committee said :

"We have found privacy to be a concept which means widely different things to different people and changes significantly over relatively short periods. In considering how the courts could handle so ill-defined and unstable a concept, we conclude that privacy is ill-suited to be subject of a long process of definition through the building up of precedents over the years, since the judgements of the past would be an unreliable guide to any current evaluation of privacy."

The Committee thought that the best way to ensure regard for privacy was to provide specific and effective sanction against clearly defined activities which unreasonably frustrate the individual in his search of privacy. It was of the view that the type of conduct against which legal protection could be afforded on the ground of intrusion on privacy should be confined to injurious or annoying conduct deliberately aimed at a particular person or persons where the invasion of privacy is the principal wrong complained of. The Committee thought it fit to bestow its particular attention on the following activities :

"intrusive gathering and dissemination of information by the publicity media, handling of credit information, unwarrantable intrusion into personal matters at work and in education and medicine, prying by neighbours and landlords, intrusive sales methods, investigations by private detectives, and industrial espionage."

The Committee also gave special attention to certain modern technological developments affecting privacy viz. technical surveillance devices and computers.

24. The Younger Committee proposed legislation to create a new crime and a new tort of publication of information obtained by unlawful means. It also recommended that unlawful surveillance by device, where done surreptitiously, should be a criminal

offence and that in certain circumstances the advertising of devices for unlawful surveillance should constitute the offence of incitement to commit the main crime. The remedies suggested were injunction and damages.

25. The Royal Commission on the Press presided over by Professor O. R. McGregor, which submitted its report in July 1977, agreed with the views of the Younger Committee.

#### *The importance of the right in the modern context*

26. The concept of privacy has been widely discussed in recent years mainly because of two developments: (1) the growth of the modern State into a powerful administrative body capable of governing every aspect of the life of its citizens; and (2) the technological revolution which has thrown up devices with which it is possible to fantastically and into a powerful administrative body capable of a man's house even without his knowledge. Microphones reduced to the size of a match-head can pick up sound waves and transmit the same to eavesdroppers. Infra-red light techniques enable a room to be watched and photographed from an adjoining room even through opaque walls. Sophisticated photographic equipment enable photographs being taken from very long distances. Man's house is no longer sacrosanct and inviolate. The emergence of devices for wire-tapping, eavesdropping and bugging and the growth of computers, it is said, has allowed vast masses of information to be collected in centralised and easily accessible locations and freely and rapidly disseminated to other persons with a specific interest in the particular information. It is further said that a situation has come about in which a person may find himself threatened and uncertain in a kind of psychological prison fashioned by a complex technology not knowing when and by whom he is being watched or overheard. An individual may find himself manipulated and overseen by those who have control of a mass of computerised data relating to him which lays bare everything he has done and which may also distort truth by recording false, inaccurate or incomplete information about him. Thus an individual is said to have become more vulnerable in regard to his personal, private and emotional feelings on account of adverse publicity, scandal mongering, vulgar curiosity and sensationalism. It is stressed that there is dire need to protect persons from consequent emotional disturbances, anxieties, humiliation and embarrassment.

27. It may be wondered whether all this is relevant to us with the dire economic conditions prevalent in our country. It may be argued that privacy may be important in an individualistic, urbanised, developed society in which there is adequate room for a person's privacy, but may not have much relevance in our context where millions of our countrymen do not possess the essentials of life requisite for enjoyment of privacy. However, it must be pointed out that privacy touches and concerns every human being as a unique and autonomous person, irrespective of his

economic condition and a medium of privacy is essential for maintaining his dignity and worth. However, the extent and limits of its protection may vary depending upon the conditions prevailing in each country.

28. Today, privacy has grown into an unwieldy and nebulous concept. We think, as a first step, we should take care of activities which intrude physically or electronically into a private home or office. Some way has to be found for protection of personal information.

#### *Recommendations of the Law Commission in 1971*

29. The Law Commission of India had occasion to examine this question in 1971. In Chapter 23 of its 42nd Report on the Indian Penal Code it observed that the law on the subject of privacy was still rudimentary even in advanced countries, and it was not advisable to have comprehensive legislation to deal with all aspects of invasion of privacy. The Law Commission rightly thought it better to make a beginning with those invasions which would amount to eavesdropping and unauthorised publication of photographs and leave the rest to be considered later on in the light of the experience gained and legislation introduced in other countries.

30. Pursuant to the above recommendation of the Law Commission, clause 197 of the Indian Penal Code (Amendment) Bill, 1978, as passed by the Rajya Sabha on 23rd November 1978, sought to substitute the following Chapter entitled 'Office against Privacy' in the Penal Code in place of the existing Chapter XIX:

"490. *Use of artificial listening or recording apparatus.*—(1) Whoever, knowing that any artificial listening or recording apparatus has been introduced into or in the vicinity of any premises without the knowledge or consent of the person in possession of the premises, listens to any conversation with the aid of such apparatus or uses such apparatus for the purposes of recording any conversation, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

(2) Whoever publishes any conversation or a record thereof, knowing that it was listened to or recorded with the aid of any artificial listening or recording apparatus introduced into or in the vicinity of any premises without the knowledge or consent of the person in possession of the premises, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

"491. *Unauthorised photography.*—(1) Whoever, intending to cause, or knowing it to be likely that he will cause, annoyance to any person,

takes elsewhere than in a public place, a photograph of that person without his consent, shall be punished with simple imprisonment for a term which may extend to six months, or with fine or with both.

- (2) Whoever, intending to cause, or knowing it to be likely that he will cause, annoyance to any person, publishes any photograph of that person taken in contravention of sub-section (1) shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.
- (3) Whoever, takes a photograph of a place, building or thing knowing that the taking of such photograph is prohibited by a written notice affixed in such place, building or thing shall, except when the taking of such photograph is specifically authorised or permitted by the owner or occupant of such place, building or thing, be punished with simple imprisonment which may extend to six months, or with fine, or with both.

- (4) Whoever knowingly publishes any photograph taken in contravention of sub-section (3) shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

"492. *Exception regarding certain acts of public servants, and persons acting under their directions.*—Nothing in section 490 or section 491 shall apply—

- (a) to a public servant acting in good faith in the course of his duties connected with the security of State, the prevention, detection or investigation of offences, the administration of justice, or the maintenance of public order; or
- (b) to persons acting under the direction of such a public servant; or
- (c) to the use by any person of any artificial listening or recording apparatus for any purpose authorised or permitted under any law."

It is understood that the Bill which lapsed with the dissolution of the last Lok Sabha is likely to be re-introduced in Parliament. We recommend that this might be done as early as possible.

### VIOLATION OF PRIVACY BY THE PRESS

31. We now turn to the specific problem of violation of privacy by the Press.

#### *The experience of U.S.A.*

32. Three kinds of mass media action have led to privacy suits in the U.S.A. : (i) *The use of an individual's name or photograph in an advertisement without his consent.* Generally, there must be some kind

of profit-making or commercial endeavour involved in this. The idea is that if a man has a publicity value in his name or photograph, he should enjoy the exclusive privilege of capitalizing on it. But if the name or photograph which is published in an advertisement is incidental to other legitimate publication, it is not considered objectionable.

(ii) *Publication about private affairs of an individual.* To be actionable, the publication must be something that would be offensive or embarrassing to a man of ordinary sensibilities. Typical of such cases are those involving publicity concerning a private debt, publication of distressing matters out of the past, and disclosure of intimate details about the body, sexual practices or the like. But if the publication is truthful and "newsworthy" it is protected. The concept of 'newsworthiness' has three basic parts : (a) public interest, (b) public figure, and (c) public record. The American Courts have conceded that an almost endless variety of topics have 'public interest'. A 'public figure' is a person who places himself voluntarily in the public eye by becoming a politician, an actor, or a controversial personality. A person may also involuntarily become a participant in an occurrence of public or general interest. Material taken from the 'public record' is normally immune from a privacy suit. However, the defence of newsworthiness fails if the revelations are so intimate and so unwarranted in view of the victim's position as to outrage the community's notions of decency. (iii) *Publication of matters that are false and, while not defamatory, place the individual in a false light in the public eye.* For example, the use of a photograph in a misleading way or an inaccurate or fictitious account of a person's life or character. Before *Time v. Hill*<sup>14</sup> the issue to be decided in such cases was whether the falsity or fictionalisation defeated the privilege to report newsworthy events, and the result turned upon how serious was the divergence from the truth and how negligent the reporter. The majority opinion in *Time v. Hill* was that in such cases actual malice should be proved to sustain the suit.

33. The test of 'newsworthiness' adopted by the American Courts has been criticised on the ground that the term 'newsworthiness' has no generally accepted meaning. It is pointed out that from a privacy point of view, the more newsworthy the publication is, the greater will be the invasion of privacy. An eminent author has argued that the test of 'newsworthiness' should be discarded and instead a narrow area of privacy should be absolutely protected.<sup>15</sup> According to him the restricted area of absolute protection should include : description or photographs of a woman in child birth, of sexual intercourse, of similar personal and intimate details of one's life, the communication of which invades the inner core of personality, assailing the dignity of the individual. Beyond this point, disclosure of embarrassing facts or fictionalisation should not be construed as invasion of privacy.

14. 385 U.S. 374 (1967).

15. Thomas I. Emerson : *The System of Freedom of Expression* (1970).



### *View of the Younger Committee in U.K.*

34. The complaints received by the Younger Committee fell into two categories (i) The objectionable means sometimes adopted by the Press to obtain information, e.g., gaining entry to private premises and conducting interviews by deception, pestering and harassing people in private places for obtaining news even when the news itself was distressing to those harassed, etc. (ii) The widespread publicity given to private information, totally regardless of the means adopted for obtaining such information, e.g., publication of news and comment, mainly to satisfy idle curiosity, about private misfortunes, calamities and other incidents, or publication, with critical innuendo, of stories about unusual but lawful private activities and behaviour. The nub of many of these complaints was the direct or indirect identification of private individuals involved in them. The Younger Committee noted that whenever unwanted publicity is given to personal matter, there may be a conflict of interests between the need for the public to be informed and the need to respect the individual's privacy. The Committee recommended that the balancing of interests in each case should be left to the judgment of the Press Council.

### *Guidelines issued by the U.K. Press Council*

35. Pursuant to a recommendation of the Younger Committee, the Law Commission of U.K. produced a Working Paper on the Law of Confidence which suggests a limitation of the right of newspapers to publish documents given to them in confidence. The McGregor Commission noted that a report and draft bill in this behalf were expected in the near future<sup>16</sup>. This branch of the law came into prominence during legal proceedings relating to the publication in *The Sunday Times* of the diaries of the late Mr. Richard Grossman. The way in which certain newspapers had dealt with the private lives of well known people had been heavily criticised and the Press Council of U.K. had to issue in 1976 the following declaration of principle on privacy setting out the rules for guidance of editors in deciding when to publish stories about people's private lives :

- (i) The publication of information about the private lives or concerns of individuals without their consent is only acceptable if there is a legitimate public interest overriding the right of privacy.
- (ii) It is the responsibility of editors to ensure that inquiries into matters affecting the private life or concerns of individuals are only undertaken where in the editor's opinion at the time a legitimate public interest in such matters may arise. The right to privacy is however not involved if the individuals concerned have freely and clearly consented to the pursuit of inquiries and publication.

(iii) The public interest relied on as the justification for publication or inquiries which conflict with a claim to privacy must be a legitimate and proper public interest and not only a prurient or morbid curiosity. 'Of interest to the public' is not synonymous with 'in the public interest'. It should be recognised that entry into public life does not disqualify an individual from his right to privacy about his private affairs, save when the circumstances relating to the private life of an individual occupying a public position may be likely to affect the performance of his duties or public confidence in him or his office.

(iv) Invasion of privacy by deception, eavesdropping or technological methods which are not in themselves unlawful can however only be justified when it is in pursuit of information which ought to be published in the public interest and there is no other reasonably practicable method of obtaining or confirming it.

(v) The Council expects the obtaining of news or pictures to be carried out with sympathy and discretion. Reporters and photographers should do nothing to cause pain or humiliation to bereaved or distressed people unless it is clear that the publication of the news or pictures will serve a legitimate public interest and there is no other reasonably practicable means of obtaining the material.

(vi) Editors are responsible for the actions of those employed by their newspapers and have a duty to ensure that all concerned are aware of the importance of respective all legitimate claims to personal privacy.

### *Replies to the questionnaire*

36. We issued a questionnaire on 'privacy' which may be seen in Appendix I.31. The analysis of the replies received may be seen in Appendix VI-1. The questionnaire was addressed to Members of Parliament, Advocate Generals in States, members of Bar Associations, eminent lawyers, journalists and public men. Out of the 7138 persons to whom it was sent, only 229 responded. An overwhelming majority of the respondents thought that it was not legitimate for the Press to disclose facts concerning the private life of an individual which had no bearing on public affairs or in which the public had no interest. No clear criteria to distinguish 'public interest' from mere 'curiosity' emerged from the replies. Some thought 'public interest' covers issues over which the public as a whole feels concerned while some others thought that private lives of persons holding office which had a bearing on matters of social and national concern would fall in that category. As to when disclosure of facts relating to private life of a public man or a person prominent in the public eye could be justified in

16. Royal Commission on the Press, Final Report, Cmd. 6810, p. 186.

newspaper reports, the response was equally varied. Seventy-five respondents said that the disclosure would be justified if the matter had a bearing on vital social or national interests. Forty-three respondents thought that disclosure would be justified when the official authority was misused by the holder of the public office for his self-interest. Nine persons said that when a prominent or public man led an immoral personal life, disclosure would be justified. Seven thought that such disclosure would be justified when the example set by the prominent or public person would inspire the public. Two were of the opinion that if such disclosures would assist the public in studying the character of the prominent or public person they would be justified. One person said that if such disclosure would have a correcting influence on the prominent or public person it would be justified. Seven persons merely said that disclosures should be avoided. While forty-one respondents did not have a definite opinion the remaining forty-four did not have any comments to offer. The respondents had been asked to give examples of invasion of privacy which they considered to be 'in public interest' or 'not in public interest'. The examples given did not fall into any pattern. In answer to another question, majority of the respondents agreed that not infrequently allegations were made in newspaper reports in respect of an individual's private life recklessly or without regard to their truth, in the name of investigative journalism. On the question what measures were required to safeguard privacy, 78 preferred a constitutional remedy, 91 a legal remedy and 101 an institutional remedy, i.e., monitoring of violations of privacy by newspapers through the Press Council or by some other body to be created for the purpose.

#### *Complaints on Privacy pending in the Press Council*

37. The Press Council reported that it had received five complaints relating to privacy. One of these was not inquired into as it related to a period anterior to the re-establishment of the Council in 1979. Another had to be dropped as the newspaper in question had ceased publication and the remaining three were in various stages of inquiry.

#### *Privacy Bill introduced in the Lok Sabha*

38. We have seen "The Right to Privacy Bill, 1981" introduced in the Lok Sabha on 20th March 1981 by a private member and we think the definition of the "Right to Privacy" is in very broad terms. We are inclined to think that such legislation incorporating a general right to privacy may not be advisable. The dangers inherent in such a step have been indicated in paragraphs 22 and 23 *ante*.

#### *Conclusions and recommendations*

39. Privacy concerns the individual, but individuals interact when they live in a community and this leads to communication of personal information. Both individuals and institutions have a legitimate claim to receive a considerable amount of personal information, at least on a restricted basis. Knowledge of

what other people are doing is essential to members of a society who are inter-dependent. The need extends beyond knowing just about those who live close-by. It extends to a general knowledge of events in a wider society and in the world as a whole, which is the raw material out of which public opinion is formed, on which national and regional policies are made and by which standards of public and private customs and morals are evolved. Much of the knowledge referred to above is of a purely public character relating to issues of international, national or local policy. On the other hand it often extends into the personal activities of individuals and groups where the borderline between the private and public domains is less distinct. As the Younger Committee pointed out, marriage customs, the upbringing of children, conventions and habits in education, entertainment and social life are all examples of subjects which should be widely discussed in the public interest and yet involve examination of the way of life of individual citizens and their families. Some matters, although highly personal, raise issues of public concern. All members of the community have an interest to receive information on topics of public significance. Thus the claim to privacy tends to conflict with the claim to public information. The dilemma is to strike a proper balance between these two interests. The question of where to draw the line between private and public becomes even more complex when the private activities of a public figure are in question.

40. There has been a tendency in sections of the Press to write fictional stories with reference to an existing person. In the U.S.A., writings of this kind have been taken adverse notice of by the Courts. In some cases, the offence may attract the defamation law and the aggrieved person would have legal remedy. Where this is not possible we recommend that the aggrieved person should have recourse to the Press Council.

41. If invasion of privacy becomes a ground of legal action, the Press may become exceptionally vulnerable to malicious actions. The potential cost of possible actions of invasion of privacy might inhibit a newspaper from proceeding with a story. Where customs vary between different regions or groups or social classes the wide dissemination of knowledge about how others live is a necessary way of preventing the undue fragmentation of society. The Press sees this as one of its important functions. However, the importance of a piece of news is not the only factor which prompts its publication. Much news is published to satisfy curiosity or a desire to be entertained. Such news would be 'of' public interest as distinct from the type of news mentioned above which is 'in' the public interest. Even a determined and substantial invasion of privacy will often be justifiable where it can be shown that the object is to give news 'in' the public interest, but much less often, if the object is to give news merely 'of' public interest. We are of the view that the Press Council could appropriately be entrusted with the task of taking cognizance of

complaints of unfair publication relating to matters concerning privacy. Section 13(2)(c) of the Press Council Act, 1978, so far as it is relevant here, is in the following terms :

“(2) The Council may, in furtherance of its objects, perform the following functions, namely :

- (c) to ensure on the part of newspapers, news agencies and journalists, the maintenance of high standards of public taste and foster a due sense of both the rights and responsibilities of citizenship;”

We suggest that the phrase “including respect for privacy” may be added between “public taste” and “and foster” in the above sub-clause.

42. In disposing of complaints relating to privacy, we think that the Press Council should keep in view the principles mentioned in this paragraph. We are of the view that every person is entitled to the refuge of his home, his family and his friends free from unwarranted intrusion and the threat of unwanted publicity. Many individuals have phases of their lives and activities which they desire to keep to themselves or to chosen intimates. Personal and sexual relations, for example, are normally entirely private matters as are family quarrels, illnesses, an individual's mode of life in his home and personal letters. Such intimate matters should not be published unless there is good reason to do so. We have therefore come to the conclusion that sensitive private facts relating to the health, private behaviour, home life or personal or family relationships should not be published, except when it is in public interest to do so, if the publication of those facts is likely to cause distress, annoyance or embarrassment to the person or persons concerned. Disclosure of remote criminal proceedings should be avoided, as unwarranted publication of a past record is capable of causing great harm to the individual and to his or her family. Otherwise, an important and desirable inducement to a return to lawful conduct would be removed and those who have paid their debt to society may be subjected to harassment all their lives. Similarly appropriation of the name, identity, reputation or likeness of an individual for commercial or political purposes or for advancement of one's career or advancement in public life should be treated as objectionable. The facets of ‘public interest’ dealt with in the exceptions to section 499 IPC (defamation) should be utilised in deciding whether the publication is in public interest or not. A matter may be said to relate to public interest if it belongs to one of the following categories :

- (a) conduct of public servant in the discharge of his public functions, or his character in so far as his character appears in that conduct, and no further;
- (b) conduct of any person touching any public question, or his character insofar as his character appears in that conduct, and no further;

- (c) any performance which its author has submitted to the judgment of the public, or the character of the author of the performance insofar as his character appears in such performance, and no further;

- (d) matters arising out of any authority conferred by law or contract on one person to pass, in good faith, any censure on the conduct of another person, in matters to which such lawful authority relates;

- (e) matters concerning any accusation made against any person to a person who has lawful authority over the person, with respect to the subject-matter of the accusation;

- (f) matters concerning other matters which have been already dealt with—

- (i) before a court in judicial proceedings not held *in camera*, or

- (ii) before Parliament or Legislature in proceedings not held *in camera*, or

- (iii) before a public body or public servant in any proceedings not held in private;

- (g) other matters not enumerated above, where it is for the public good that the information (though non-defamatory) may be published. This would include matters whose publication is necessary by way of a reflection on character or caution.

The public interest relied on as the justification for publication must be a legitimate and proper interest and not only a prurient or morbid curiosity. Apart from the plea of public interest, the following may be deemed as valid defence against a complaint of invasion of privacy :

- (i) consent to publication,
- (ii) availability of published matter from public record open to public inspection;
- (iii) innocent publication i.e. publication where the publisher did not know or had no reason to believe that it would cause distress, annoyance or embarrassment to particular individuals;
- (iv) matters published under legal authority to which claim of privilege as understood in the law of defamation, applies; and
- (v) publication which is for the protection of the publisher himself.

‘Investigative’ or ‘exposure’ journalism involves prolonged enquiries based on suspicion. Some times it

is in public interest and sometimes it ends up in character assassination. However, the Press views it as an important public service which it alone can perform and claims immunity in this area. We do not think that the processes of inquiry involved in investigative journalism should be treated by the law in any way different from other journalistic activities. We are of the view that it should also be carried on within the same rules as are applicable to ordinary citizens.

43. To sum up, our examination of the legislation enacted or contemplated in other countries shows that privacy is an extremely nebulous concept, and criteria which may constitute its violation cannot be easily drawn up. However, we feel that steps should be taken to protect personal information and to prevent activities amounting to intrusion, physically or electronically, into a private home or office. The Law

Commission has recommended legislation intended to make a beginning with those invasions which amount to eavesdropping and unauthorised publication of photographs. We endorse its recommendation that the Indian Penal Code be amended to include "offence against privacy".

44. We are of the view that the Press should not be unduly inhibited in performing its important function of giving news in the public interest as distinct from news that may pander to prurient or morbid curiosity. But a correct balance has to be struck between the citizen's claim to privacy and the public's right to information. We recommend that the Press Council should be entrusted with the responsibility of looking into complaints of invasion of privacy and of monitoring the performance of the Press in this regard. To this end, Section 13(2)(c) of the Press Council Act 1978 may be suitably amended.



## VII. FREEDOM AND RESPONSIBILITY : ROLE OF THE PRESS COUNCIL

In the words of Jawaharlal Nehru, "There is no such thing as abstract freedom. Freedom is always accompanied by responsibility. Freedom always entails an obligation, whether it is a nation's freedom or an individual's freedom or a group's freedom or the freedom of the Press. Therefore, whenever we consider the question of freedom, we must also inevitably consider the responsibility that goes with freedom. If there is no responsibility and no obligation attached to it, freedom gradually withers away. This is true of a nation's freedom and it applies as much to the Press as to any other group, organisation or individual."

2. The First Press Commission came across a great deal of "scurrilous writing—often directed against communities or groups", of "indecent and vulgarity" and "personal attacks on individuals". It noted that yellow journalism was on the increase in the country and was not confined to any particular area or language. "It is not easy", the Commission said, "to define what yellow journalism is". We would classify under this category any malicious and wilful publication of reports which are known to be false or are not believed to be true, as well as the building up of a body of falsehood around a core of fact. It would include also the lurid exposure, unrelated to public interest, of the personal lives of individuals or even unwarranted intrusion into their private lives. Such publications are made, with or without intention to levy blackmail directly or indirectly, and sometimes only to cause pain or humiliation. We would also include therein indulgence in obscene or in language suggestive of the obscene with deliberate intent to debase public taste. There is also the use of abusive language and writings offending against public decency". The commission also noted: "None of the professional organisations gave us much material on the nature of yellow journalism in this country or the measures, if any, that they had adopted to check it."

3. The Commission pointed out, however, that the well-established newspapers had, on the whole, maintained a high standard of journalism. It found that they had avoided "cheap sensationalism and unwarranted intrusion into private lives." The Commission remarked that "whatever the law relating to the Press may be, there would still be a large quantum of objectionable journalism which, though not falling within the purview of the law, would still require to be checked." It was of the view that the best way of maintaining professional standards of journalism would be to bring into existence a body of people principally connected with the industry whose responsibility it would be to arbitrate on doubtful points and to censure any one guilty of infraction of the code of journalistic ethics. The Commission recommended the setting up of a Press Council.

Among the objectives visualised for the Council were: "to safeguard the freedom of the Press", "to ensure on the part of the Press the maintenance of high standards of public taste and foster a due sense of both the rights and responsibilities of citizenship" and "to encourage the growth of the sense of responsibility and public service among all those engaged in the profession of journalism."

### *Press Councils in other countries*

4. The institution of Press Council emerged for the first time in Sweden in 1916. Now it has been established in more than 40 countries. In all the countries, except Italy and Holland, Press Councils have been set up voluntarily. The functions assigned to the Councils differ. The Italian and Netherlands Press Councils have nothing to do with publishers and confine their activities to the maintenance of professional standards of journalists. In Denmark and West Germany, the Councils address themselves only to publishers. The Australian Press Council strives to promote the people's right to be well served by a "free, courageous but self-restrained Press". In Canada the Press Council "helps to foster a sense of professionalism" as also to set standards and encourage journalists to discuss their problems on an organised basis.

5. The British Press Council came into being in 1953. It has served as a model for many countries. The first Council was an all-Press body which elected its own Chairman. The idea of a lay chairman and some lay members was introduced in 1962. The Third Royal Commission on the Press suggested in 1977 parity between lay and journalist members as it felt that there was need for the Press Council to show a determination to be independent of the Press as otherwise the public would not believe that a Council dominated by journalists and others from the Press could keep an effective watch on the standards of the Press and could deal satisfactorily with complaints made by citizens.

6. The main objects of the British Press Council are to preserve Press freedom, maintain the character of the British Press in accordance with the highest professional and commercial standards, and to deal with complaints about the conduct of the Press or the conduct of persons and organisations towards the Press. Since the Council is a voluntary body, the only sanction it has is the moral obligation of newspapers and periodicals to publish adjudications upholding complaints against them.

7. In the United States, the proposal for the establishment of a Press Council was made by the Hutchins Commission on Freedom of the Press in

1947. The proposal was initially rejected by most news organisations. It took twenty-five years for a National News Council to be created in 1973 on the lines suggested by the Hutchins Commission. Its purpose is "to serve the public interest in preserving freedom of information and advancing accurate and fair reporting of news". Its members and advisers numbering 20 in 1975 included five lawyers (two former State Judges), one member of Congress, ten media representatives, one businessman, two civil rights leaders (one from the clergy) and one educator. The NNC deals with the problems of both print and electronic media.

#### *Case for a statutory Council*

8. The First Press Commission recommended the establishment of a Press Council in India on a statutory basis on the ground that the Council should have legal authority to make inquiries as otherwise each member, as well as the Council as a whole, would be subject to the threat of legal action from those whom it sought to punish by exposure. The Commission said that the Council should consist of men who would command the general confidence and respect of the profession and should have 25 members excluding the Chairman. The Chairman was to be a person who was or had been a Judge of a High Court and was to be nominated by the Chief Justice of India.

9. The first Press Council Bill, incorporating substantially the objectives envisaged by the First Press Commission, was moved in the Rajya Sabha in 1956. It provided for the appointment of the Chairman by the President of India. There were to be three Members of Parliament in the Council. Instead of a cess of Rs. 10 per ton on newsprint consumed by newspapers to finance the Press Council as suggested by the Press Commission, the Bill envisaged financing by the Government. The Bill which was passed by the Rajya Sabha lapsed on account of the dissolution of the Lok Sabha in April 1957.

10. A fresh Bill was moved in the Rajya Sabha in November 1963 after the National Integration Committee had recommended, in June 1962, the immediate establishment of a Press Council. It was considered by a Joint Select Committee of Parliament and was approved by the Rajya Sabha on 26th August 1965 after incorporation of three amendments—two moved by the Government and one by Professor A.R. Wadia. According to one of the Government amendments, the Press Council could review cases of foreign assistance received by newspapers only on a reference by the Government. The other amendment moved on behalf of the Government deleted the clause authorising the Council to inquire into complaints of interference with the freedom of the Press by any authority including the Government. Professor Wadia's amendment related to the enlargement of the objectives of the Council to enable it to undertake activities to encourage the growth of a sense of responsibility and public service among those engaged in journalism. The Bill as amended was passed by both Houses of Parliament and assented to by the President on 12th November 1965.

#### *Formation of Press Council of India*

11. The first Press Council of India was set up on 4th July 1966 with Justice J.R. Mudholkar, then a Judge of the Supreme Court, as Chairman. The full list of Member was notified in the Gazette of India on 16th November 1966 and the Council formally came into being on that day. (The powers and functions of the Council under the Press Council Act, 1965, are given in Appendix VII. 1).

12. Justice Mudholkar resigned on 1st March 1968, and Justice N. Rajagopala Ayyangar, a former Judge of the Supreme Court, was appointed in his place. He assumed office on 4th May 1968.

13. On the basis of the recommendations of a Parliamentary Committee which went into the composition and working of the Press Council, the Act was amended on 31st March 1970 with a view to widen its range of functions and enhance its authority. The amended Act covered the whole of India, including the Press in Jammu & Kashmir which was till then outside the scope of the Act, and brought in news agencies also within its purview. The amended Act empowered the Nominating Committee to review its own decision in regard to nominations and also to select persons on its own if an Association failed to submit a panel. It also empowered the Council to co-opt *ad hoc* members to serve in any Committee constituted by it. The Council was given the power to compel the editor of a newspaper to publish the decision of the Council on a complaint made against it. It was also authorised to call for production of accounts of any organisation for scrutiny and to requisition public records from any court or office. The Council could probe into surreptitious flow of foreign money, if any, into a newspaper or a news agency without having to wait for a reference from the Central Government. Suspected cases of receipt of assistance from an external source could also be brought to the Council's notice by any individual or organisation.

#### *Abolition and revival of the Press Council*

14. The Council was reconstituted and its term extended from time to time. By an Ordinance issued on 8th December 1975 during the Internal Emergency the Press Council was abolished on the expiry of its term on 31st December 1975 and the Press Council Act, 1965 was repealed in January 1976. The objects and reasons appended to the Press Council (Repeal) Act, 1976 stated that the Council was being abolished because it "was not able to carry on its functions effectively to achieve the objects for which the Council was established." The Annual report of the Ministry of Information and Broadcasting for 1975-76 said: "The Press Council, during the nine years of its existence, had failed to curb the tendentious, provocative and unrestrained writings in the Press. It was unable to frame a code of conduct for editors and complaints of minor character mostly engaged its attention. Accordingly the Press Council of India was abolished with effect from 1st January 1976."

15. A fresh legislation providing for the establishment of a Press Council was enacted in 1978. The Act came into force on 1st March 1979. Justice A.N. Grover, a former Judge of the Supreme Court, was appointed Chairman of the new Press Council on 3rd April 1979. (The powers and functions of the Council under the Press Council Act, 1978, are given in Appendix VII. 2.)

16. The new Act provides for selection of the Chairman by a Committee consisting of the Chairman of the Rajya Sabha, the Speaker of the Lok Sabha and an elected representative of the members of the Council. Section 15(4) of the Act empowers the Council to sit in judgment over actions of the Government which interfere with the freedom of the Press. The Act empowers the Council to levy a graded fee on newspapers and news agencies to meet its expenditure. This provision is intended to reduce its dependence on Government's financial support and to foster a sense of participation among the newspapers in the affairs of the Council.

17. A conspicuous omission in the new Act is the training function, which was one of the functions assigned to the Press Council under the 1965 Act.

#### FUNCTIONING OF THE PRESS COUNCIL

18. The Press Council has functioned for 15 years. Within the limits set by the legislation it has done useful work and we recommend that the institution should continue.

19. One of the main functions of the Council is to inquire into complaints received by it. Since its inception in 1966 up to the end of 1981, the Council considered about 800 complaints. This does not include the figures for 1975 which are not available. Of these, 214 were complaints involving freedom of the Press, mostly against Central and State Governments and local bodies, alleging discrimination in distribution of advertisements, denial of facilities and harassment. Five hundred and sixty-six complaints were made against newspapers by individuals and organisations and Central and State Governments. In regard to complaints alleging violation of freedom of the Press by Central or State Governments, the Council is empowered only to inquire into and express an opinion but not censure the government.

20. In regard to complaints against newspapers, the Council had under Section 13 of the 1965 Act, the power only to "censure" erring newspapers or journalists. The Council interpreted it to mean that "censure" was the maximum punishment which it could award and that there was no bar on awarding lesser penalties like 'warning' or 'admonishment' where circumstances did not warrant 'censure'. This was made explicit in the 1978 Act by laying down in section 14 that the Council may "warn, admonish or censure the newspaper, the news agency, the editor or the journalist or disapprove the conduct of the editor or the journalist as the case may be". The 1978 Act also empowers the Council to require any

newspaper to publish any particulars relating to any inquiry against a newspaper. The 1965 Act did not initially contain such a provision until it was introduced by an amendment made in 1970.

21. The Council has warned, admonished or censured 42 newspapers during the period ending 1981. (Appendix VII. 3 gives the details in this behalf). The complaints involved writings calculated to incite communal hatred, indecency and obscenity, journalistic improprieties including character assassination, unethical practices like insertion of dummy advertisements, scandalous reporting and suppression of news. The language-wise break-up of newspapers which were warned, admonished or censured is: Urdu 14, English 8, Hindi 7, Marathi 7, Tamil 3, Gujarati 2 and Kannada 1. Some of the newspapers have been warned, admonished or censured more than once. An English daily of Bhopal was warned in 1980 on a complaint from two individuals alleging that the paper was publishing dummy advertisements. One of the complainants also accused the paper of making false claims of circulation. The paper was asked to publish the decision of the Council. The decision as published was found by the Council to be at variance with the full text of the decision forwarded to the Editor for publication, "which was likely to create misunderstanding in the minds of the readers as to the identity of the newspaper indicted." The editor had also appended a small note of defiance. The Council in the course of its adjudication said: "In the same issue the paper carried and extremely objectionable editorial under the caption 'Abolish Press Council' imputing political motives to the decision of the Council. The Editor's conduct, in the opinion of the Council, was deplorable inasmuch as he had not only flouted the directions of the Council but also published a highly objectionable editorial derogatory of an independent body like the Press Council of India set up under an Act of Parliament. The Council accordingly censured the Editor of this newspaper and directed him to publish the decision of the Council in his newspaper."

22. It is evident that where a newspaper chooses to be recalcitrant, the Council is helpless. While some witnesses appearing before us stressed the need for arming the Press Council with punitive powers, one witness said that the Press Council should have no penal powers. The Third Royal Commission on the Press which considered arguments for investing the British Press Council with power to impose penalties on journalists rejected the proposal on the ground that it would present a potentially dangerous weapon of control over the Press if given statutory backing. The Commission was of the view that the law should not be available to enforce penalties for what in many cases may be breaches of taste. The Commission was also not in favour of a voluntary system of fines as it would carry the danger of its being ignored.

#### *Power to Impose Penalties*

23. The Press Council has suggested to the Government that the 1978 Act be amended to empower it to recommend to the Central or State Governments, public sector undertakings, etc. stoppage of issue of



advertisements, or disallowing any provision for growth in circulation in the matter of allocation of newsprint or suspension of concessional rates of postage, for a specified period, in the case of newspapers which are censured thrice. In the case of journalists and editors who are held by the Council thrice to have violated the accepted principles of journalistic ethics, the Council desires to have the power to deny facilities of accreditation for a specified period. The Council has urged that it should be made obligatory on the part of the concerned authorities to carry out its directions in this behalf.

24. It has been argued by some, that newsmen who exercise their fundamental right of freedom of speech and expression, can be punished only for breach of a law made under Article 19(2) of the Constitution. Doubts have been expressed whether the sanctions sought by the Press Council would stand judicial scrutiny. On the other hand, it has been strongly urged that genuine papers cannot thrive unless the black sheep are taught a lesson. Quality and standards, according to this view, can be maintained only if newspapers falling below accepted standards are penalised.

25. We recommend that the Press Council be given the powers sought by it with the modification that a newspaper would invite sanction if it comes to the adverse notice of the Council thrice, whether by way of disapproval, warning, admonition or censure. Once these powers are given, it becomes essential to expressly provide in the Act that the Chairman of the Press Council should have a judicial background and should preferably be a retired Judge of the Supreme Court. Sarvashri Girilal Jain, S. K. Mukherjee and H.K. Paranjape do not agree with the rest of us that the Press Council should be given penal powers.

26. The Press Council has suggested in its Annual Report for 1980 that it should also have the power to warn, admonish or censure any authority including Central or State Government and that its observations in this behalf should be placed on the Table of both Houses of Parliament or of the Legislature of the State concerned. The Commission is of the view that Section 15(4) of the Press Council Act, 1978, which empowers the Press Council to "make such observations, as it may think fit, in any of its decision or reports, respecting the conduct of any authority including Government" is adequate. We recommend that such observations should, as early as possible, be placed before both Houses of Parliament or the State Legislature as the case may be.

### *Code of Journalistic Conduct*

27. One of the functions entrusted to the Council is the building up of a code of conduct for newspapers, news agencies and journalists in accordance with high professional standards. The Council examined this question at its very first meeting in December 1966 and decided that it would build up such a code in course of time, through precedents established in the process of dealing with specific complaints. The

Second Annual Report of the Council for the year 1967, points out that Section 12(2) (b) of the Act required the Council "to build up" a code of conduct and not "frame" a code of conduct for newspapers and journalists straightaway", indicating thereby that the code must gradually grow out of the decision of the Council. The Annual Report for the year 1973 says that attempts at framing an exhaustive code for professional bodies of journalists in various countries, including India, have either proved futile or resulted in the mere enunciation of certain basic principles in general terms that had not proved helpful when it came to applying the principles to individual cases. In its view, if these principles were to be reduced to a kind of a code of conduct or journalistic propriety by the Council, they would have a tendency to attain a degree of rigidity which might give rise to difficulties. The Council has stuck to this view in successive annual reports, including the one for 1980.

28. We find that among the professional bodies of journalists, only the All India Newspaper Editors' Conference has a Code of Ethics and an Editors' Charter, both incorporated in its constitution. These were formulated in September 1953. The A-I.N.E.C.'s constitution makes it obligatory for the members to abide by them. The two documents are given in Appendices VII. 4 and 5.

29. A Code of Ethics for Journalists and Editors as drafted by a Committee of 17 Editors was presented to the Rajya Sabha on 8th January 1976 during the internal emergency. This Code is given in Appendix VII. 6. In February 1981, the National Union of Journalists adopted a declaration pertaining to rights and duties of journalists (Appendix VII. 7). The All India Small and Medium Newspapers Association had drawn up a Code of Ethics in 1975, but it was not approved by its general body. Now that Association has set up a sub-committee for drawing up a fresh Code of Ethics. The Editors Guild of India is categorically against the drawing up of any Code of Ethics for the guidance of journalists. According to its Secretary, the Guild feels that "responsible people cannot be governed by formal codes".

30. In the United States, the American Society of Newspapers Editors adopted, on 23rd October 1975, a Code of Ethics (Appendix VII. 8) which says in its preamble that journalism demands of its practitioners not only industry and knowledge but also the pursuit of a standard of integrity proportionate to the journalists' singular obligation.

31. The Third Royal Commission on the Press, after noting that the British Press Council had opposed the preparation of a Code, recommended that the Council should draw up a Code of Behaviour on which it could base its adjudications. The Commission said: "such a Code would be a natural way of demonstrating that the Press Council is carrying out its stated objects and we consider that it should set out in some detail the spirit which should govern the conduct of editors and journalists."

32. We are of the view that it would not be desirable to draw up a code of ethics for newspapers. As the Press Council has maintained, such a code could be built up case by case over a period of time.

### *Study of Press Structure*

33. Under Section 12(2)(j) of the 1965 Act, the Council was required to study developments which might tend towards monopoly or concentration of ownership of newspapers or news agencies including their financial structure and suggest remedies. A questionnaire was drawn up to ascertain public opinion on the question and about 10,000 copies of the same were sent to legislators, journalists, educationists and public men but the response was woefully poor both in quality and quantity. Only 136 replies were received and most of these "were vague, incomplete and unsatisfactory". Subsequently, the Council set up a Monopoly Committee which held its first meeting in June 1971. Shortly thereafter, there were statements both in the Lok Sabha and the Rajya Sabha that Government was contemplating legislation to deal with the problem of concentration of ownership in the newspaper industry and the newspapers published what purported to be a draft Bill which Government intended to introduce in Parliament. The Council took up the matter with the Government and also passed a resolution protesting against its being by-passed in a matter fraught with grave consequences to the future of the Press in India and to the freedom of the Press. Government acknowledged receipt of the resolution and indicated that no final decision had been taken and discussions were still continuing. Government assured the Council that any suggestions the Council might have to make in this regard would be welcomed and would be given the highest consideration. During 1972 the secretariat of the Council assembled facts and figures in respect of the leading 30 chains and groups belonging to common-ownership newspaper units. In the meantime, there were Press reports that a sub-committee of the Cabinet had submitted its report on the subject to the Prime Minister. The Chairman of the Press Council sought information from the Government whether it was correct that Cabinet Committee had drafted a Bill on the subject, and even if there was no Bill whether Government had made up their mind on any of the questions involved. In reply, the then Minister of Information & Broadcasting told the Council that it was true that certain proposals for delinking newspaper ownership from the ownership of industrial units had been under the consideration of the Government for some time and that some tentative reports on the subject had been prepared. The reply said that it would help the Government a great deal to formulate their conclusions and arrive at decisions if the Press Council could suggest remedies based on their study of the trends towards monopoly and concentration of ownership of newspapers and news agencies. The Government's reply reminded the Press Council that the object of Section 12(2)(j) of the Press Council Act, 1965 was to provide Government with the results of studies and the well-considered views of an independent body like the Press Council. The Council's Committee on Monopoly met for several days and made

suggestions in respect of the problems of monopoly and concentration of newspaper ownership. The Press Council's Annual Report covering 1973 says: "The Council, which commenced consideration of these reports, could not complete its work as it felt that the problem required a comprehensive study of several aspects which the Council at its few sittings was unable to carry out adequately." There is no reference to the subject in the Press Council's report covering 1974. No report was published covering the work of the Press Council during 1975. The 1978 Act refers to this subject in Section 13(2)(i) in the following terms: "To concern itself with developments such as concentration of or other aspects of ownership of newspapers and news agencies which may affect the independence of the Press." The Annual Reports of the revived Press Council covering the years 1979 and 1980 do not refer to any study with regard to such developments.

### *Press Laws*

34. The Council suggested several modifications in the Criminal and Election Laws (Amendment) Bill introduced in the Lok Sabha in August 1968. It sent a detailed memorandum on the Contempt of Courts Bill, 1968, which was introduced in the Rajya Sabha in February that year. Regarding Contempt of Legislature, the Council made a plea for early codification of Parliamentary privileges, at least in relation to the Press. Following complaints from Pressmen, the Council made out a case for amendment of Sections 5(b) and 29 of the Indian Telegraph Act, 1885 dealing with interception of telegrams and punishment for transmission of false or fabricated messages through telegraph respectively. While nothing came of the Council's efforts to have Section 5(b) amended, Section 29 was repealed in August 1971 by the Indian Telegraph (Second Amendment) Act, 1970.

35. The Press Council has suggested that it should be consulted on all proposed legislation concerning the Press. We endorse this suggestion.

36. The Press Council has set up a Research Section after its revival in 1979. Detailed studies have been made on various laws affecting the Press in collaboration with the Indian Law Institute. These include studies on Official Secrecy and Freedom of the Press, Parliamentary Privileges and the Press, Contempt of Court and Law of Defamation. We have profited by these studies in our consideration of the various Press laws. We recommend that the Research Section of the Council should be strengthened so that it can take up further studies on problems relating to the Press on a continuing basis.

### *Foreign Money in the Indian Press*

37. The Press Council is required to keep under review cases of assistance received by any newspaper or news agency in India from any foreign source. The Council undertook a study of journals produced or circulated by foreign missions in India. A committee was appointed for the purpose in 1971. Its

findings do not find mention in the subsequent annual reports. In 1973, the Council gave a ruling in respect of advertisements published in Indian newspapers by foreign embassies. It held that journalistic propriety demanded that advertisements must be clearly distinguishable from editorial matter carried in papers. If this was not done, it pointed out, readers were likely to treat the propaganda of an advertiser as the opinion of the particular newspaper. The Council further considered it necessary that newspapers, while publishing such advertisements, should specify in the advertisement itself the amount received by them. The rationale behind this, it stated, was that such advertisements should be charged for at rates usually chargeable by a newspaper since payment of more than the normal rates would amount to a subsidy to the paper.

38. Shri Virendra, editor of the *Daily Pratap* published from Jullundur, invited the attention of the Council to an article published in "*India Today*" in its issue dated 16-31 December 1979 under the title "The Invisible Forces", in which it was alleged that some Indian journalists listed therein were in the pay of the CIA and that some newspapers including three from Jullundur were being subsidised by Communist countries. He wrote in his letter dated 31st January 1980:

"We must find out whether some foreign powers are subsidising the Press in this country or not. If there is any truth in what this paper has written, then the Press Council should consider this matter and advise the Government to take appropriate action to stop this type of money coming to Indian Press from foreign powers."

The Press Council deliberated on the communication from Shri Virendra and decided to call for full particulars from the magazine "*India Today*" before the Inquiry Committee of the Council embarked on an examination of the matter. Eventually the case was treated as closed "since the three Jullundur dailies mentioned in the impugned article had not sent any contradiction to '*India Today*' of the statement made in the article relating to carrying of large amount of material about socialist and communist countries". We are of the view that the manner in which the Press Council disposed of this case was not appropriate. In such cases, the approach of the Council should not be technical but substantive.

39. In order to curb the influence of foreign money on the Press, we recommend the following five steps, and the enactment of any necessary changes in laws for the purpose:

- (i) There should be a specific legal provision under which no newspaper undertaking should have any foreign ownership either in the form of shares or in the form of loans.
- (ii) Advertisement as well as printing contracts from foreign sources should be on terms no different from those applicable to similar work done for others.

- (iii) Advertisement rates must be published each year, and on every revision, and there should be no discrimination in their application to foreign advertisers.
- (iv) Once a year every newspaper should publish its profit and loss account, with separate information about foreign and Indian sources.
- (v) Every newspaper undertaking must submit with its annual account the following information to the Press Council:
  - (a) Details of revenue obtained from advertisements and printing contracts in respect of foreign sources country-wise, including advertisements or printing contracts received through an Indian agency: and
  - (b) Names of the top 100 shareholders with their nationality and address and the number and proportion of shares held.

## JOURNALISM TRAINING

40. The 1965 Act expected the Press Council, in terms of Section 12(2)(b), "to provide facilities for the proper education and training of persons in the profession of journalism." The Council set up a Committee in 1966, consisting of the Chairman and two other members to conduct a survey on the scope, nature and quality of training in journalism then available in the country. The Chairman in his report expressed the view that the Council should not attempt to start a college of journalism. Instead, it should concentrate on standardising the courses in the subject and arrange for holding of a common examination. He said that the Council could also bring out standard books for the use of teachers of journalism.

41. The subject of training in journalism has not been included among the functions of the Press Council listed in the Press Council Act, 1978. In reply to a query from the Commission, the Ministry of Information & Broadcasting stated the reason for this was that "it was considered that the Council should not be burdened with these operational functions".

42. The wording of Clause 12(2)(h) in the 1965 Act did suggest an operational function. We consider it desirable that the 1978 Act be amended so as to entrust the Press Council with the function of keeping under continuous review the adequacy and quality of journalism training facilities in the country, particularly in Indian languages, and suggesting improvements. We are recommending in the Chapter on "Training and Research" that both universities and professional institutions should share the tasks of training and research, and that there should be a National Council for Journalism Training and Communication Research with which the Press Council of India should be associated.

## MONITORING OF PRESS PERFORMANCE

43. In the Chapter on the "Right to Privacy", we have recommended that the Press Council should arrange to monitor the performance of the Press in general, and in particular with regard to violation of privacy. The First Press Commission suggested (in para 928) that there should be a continual review of the contents of Indian newspapers. The Commission recommended that the Press Institute envisaged by it should conduct this review and publish an annual report on the manner in which Indian newspapers have discharged their responsibilities. After the publication of the First Press Commission's Report, the Press Institute of India was formed in 1963, and the Indian Institute of Mass Communication in 1965, the latter with a wider scope of activities, larger professional manpower and a bigger budget. Neither of these institutions has taken up a comprehensive and continual review of the performance of the Indian Press.

44. Given the size that the Indian Press has attained, and its great diversity both in subject matter and in languages of publication, it is in our view not feasible to entrust the task of a continuous monitoring of Press performance to any single institution located at one place in the country. Nor do we consider it appropriate for the Press Council to rely on such monitoring of the Press as is done by the various offices of the Press Information Bureau. The PIB's work of Press clippings and analysis is oriented to the publicity needs of the various Central Ministries, and though it does include a watch on communal writings, the approach that is brought to bear on the work is not what would be required for the Press Council which is concerned with the maintenance and improvement of professional standards. We, therefore, recommend that the Press Council should enter into arrangements with selected University departments of journalism, Indian Institute of Mass Communication, Press Institute of India and any other suitable organisations that can be relied on to take up the work of monitoring the performance of newspapers in respect of important issues from time to time in a given language or languages. The arrangements may be funded by the Press Council to the extent necessary, and it should be ensured that the work of monitoring is done systematically and the findings communicated to the Press Council promptly. These findings should be available for study, at the office of the monitoring agency and of the Press Council, by research scholars and others interested in the performance of the Indian Press. We recommend that adequate funds should be made available to the Press Council to organise the monitoring of Press performance.

45. Many witnesses suggested to the Commission that there should be regional Press Councils. We do not favour this because of the problems of duplication and jurisdiction that would arise from the establishment of regional Press Councils in addition to a national Press Council. However, the recommendations we have made above for the monitoring of the performance of the Press in various languages should largely meet the objective which the witnesses had in mind.

## COMPOSITION OF THE COUNCIL

46. The Press Council Act under clauses (a), (b), (c) of sub-section (3) of Section 5 gives representation to working journalists, editors, and newspaper and news agency managements. For nomination to the first Council, the Central Government had to notify the Press organisations to be invited to forward panels of names. In the case of subsequent Councils, the Council itself has to notify the organisations for the purpose. The first Council, set up in 1966, had some difficulty in regard to representation. Four members, who were working journalists selected for membership of the Council from the panel of names submitted by the Indian Federation of Working Journalists (IFWJ), resigned on a directive of the National Council of the Federation, a few days prior to the first meeting of the Council held on 12th December 1966. The Federation's stand was that it should be regarded as the sole representative organisation of working journalists. Later, a writ petition was moved in the Delhi High Court contending that the Council had not been constituted in accordance with the provisions of the Act. The writ petition was dismissed by the High Court. After the first Council's three-year term, the Council in 1970 examined the representative character and other credentials of the associations and notified those judged by it as representative.

47. The same procedure was followed after the 1978 Act was enacted. The Central Government on 9th January 1979 notified certain associations and journalist bodies (Appendix VII. 9). Detailed procedure for selection of members was laid down in the Press Council (Procedure for Nomination of Members) Rules, 1978 (Appendix VII. 10). The secretariat of the Commission addressed a communication to the Press Council on 2nd December 1981 eliciting information on the criteria for the selection of the associations. Clarification was also sought whether the claims of the associations as regards membership and activities are subjected to a process of verification and, if so, annually or only every three years. In his reply dated 9th December 1981, the Secretary of the Council said that the term of office of the members of the Press Council will expire on 28th February 1982 and the Council will have to be reconstituted with effect from 1st March 1982. He added: "An advertisement was inserted indicating the Council's intention to notify the associations/news agencies which were earlier notified by the Central Government at the time of the constitution of the present Council, inviting objections, if any, from any quarters to that course being adopted. Claims were also invited of such other associations as might be able to satisfy the Council as to their representative character on a national basis." The communication further said that annual verification of the status of the various organisations is not stipulated either in the Press Council Act or in the rules made thereunder.

48. We have examined the question and consider that the procedure whereby the Council notifies the associations in the case of subsequent Councils after the first, is appropriate and adequate. We are,

however, of the view that it is desirable for the Press Council to secure information each year on the membership, finances and activities of the various associations that are notified.

#### *Retirement of Members by Rotation*

49. Shri Yadunath Thatte, a member of the Press Council said in a letter to the Commission dated 27th June 1980: "Now there are 28 Members and one Chairman. If we bring Lok Sabha and Rajya Sabha's nominees on par and make it two each, the total number of Council Members becomes 27. If one-third retire every year and new Members are elected from the same category, the Press Council will have continuity with induction of one-third new members every year. This will help give continuity to the work of the Council. In the first instance one-third Members get three years, another one-third get four years and one-third remaining get five years. But after first five years, the cycle will go on continuously as in the case of Rajya Sabha or the Legislative Councils." We are of the view that the retirement of Press Council Members by rotation will be useful as it will ensure continuity, and we accordingly recommend a suitable amendment may be made in the Press Council Act.

#### FUNDING OF THE COUNCIL

50. During the financial year 1979-80, the Press Council raised a revenue of Rs. 2,54,700 through the fees levied on registered newspapers having a circulation of more than 5,000 and from news agencies. The Council received, during the year, grant-in-aid amounting to Rs. 9,16,000 from the Central Government. It will thus be seen that the Council is funded mainly by grants from the Government.

51. Under the Press Council Rules, 1979, the Council was authorised to levy and collect fees from registered newspapers and news agencies as follows:

- (a) Rs. 1,500 per annum from each registered newspaper with a circulation range of above one lakh;
- (b) Rs. 1,000 per annum from each registered newspaper with a circulation range above 50,000 but below one lakh;
- (c) Rs. 500 per annum from each registered newspaper with a circulation range above 15,000 but below 50,000;
- (d) Rs. 100 per annum from each registered newspaper with a circulation range above 5,000 but below 15,000;
- (e) Rs. 1,500 per annum from each Class I or Class II news agency; and
- (f) Rs. 1,000 per annum each from all other news agencies.

52. Acting on the principle that financial viability—to quote from the Annual Report for 1980—"is essential towards the maintenance of an autonomous and self-regulating body like the Press Council which in all other respects is completely independent of any government or control by any other authority", the Council recommended to the Government the following revised scale of fees which have since been accepted :

Category based on circulation	Daily	Bi-weekly/ Weekly	Fort-nightly/ Monthly	Others
	Rs.	Rs.	Rs.	Rs.
A. Above 1,50,000 .	5,000	3,000	2,000	1,500
B. Above 1,00,000 and upto 1,50,000	3,500	2,000	1,500	1,000
C. Above 50,000 and upto 1,00,000	2,500	1,500	1,000	750
D. Above 15,000 and upto 50,000	1,000	600	400	300
E. Above 5,000 and upto 15,000	200	150	100	100
F. Class I News Agencies.	—Rs. 5,000 each			
G. Class II News Agencies	—Rs. 3,500 each			
H. All other News Agencies	—Rs. 2,500 each			

53. We welcome the efforts being made by the Press Council to become financially self-reliant. The Press Council's resources will be further augmented if the Government acts on the recommendations we make, in the Chapter on "Official Agencies and the Press", for the levy of a cess on newsprint consumption and a tax on newspaper advertisements, the yield from both to be earmarked in appropriate proportions for the Press Council and for the proposed Newspaper Development Commission.

#### OTHER MATTERS

54. We have discussed elsewhere in this Report, in the relevant Chapters, what we believe to be an appropriate role for the Press Council to play in relation to some other matters, namely:

- (i) Right of reply and complaints of arbitrary denial of access (Chapter IV);
- (ii) The citizen's right to privacy (Chapter VI) ;
- (iii) The work of the proposed Newspaper Development Commission (Chapter VIII) ;
- (iv) Complaints of violation of codes of advertising ethics (Chapter IX) ; and
- (v) Nomination of persons to serve on the boards of management of wire news agencies (Chapter XI).

## VIII. OFFICIAL AGENCIES AND THE PRESS

The Government's relations with the Press may be divided broadly into three categories: (i) measures to regulate newspaper publishing as an industry (for example, registration of newspaper titles, allocation of newsprint and regulation of the working conditions of journalists); (ii) measures which facilitate the work of newspapers, news agencies and journalists (such as concessional communications tariffs, accreditation of correspondents and provision of loans and land to newspapers) and (iii) provision of information to the public (through advertising from public funds, news services provided to the Press by the Government, official periodicals, and Press liaison).

### (i) Press Registrar

2. The Office of the Press Registrar or Registrar of Newspapers for India was created on 1st July, 1956, pursuant to a recommendation of the First Press Commission by an amendment of the Press and Registration of Books Act, 1867. It is the duty of the Press Registrar to register all the newspapers published in the country, to issue certificates of registration to them, to maintain the particulars relating to them in a register and to submit to the Central Government an annual report containing a summary of the information obtained by him during the previous year in respect of newspapers in the country. These annual reports entitled "Press in India" contain valuable information and statistics relating to the Press. We have already dealt with some aspects of the statutory functions of the Press Registrar in Chapter IV, under the head "Press and Registration of Books Act".

### *Circulation Claims*

3. Over the years, some important non-statutory functions have come to be entrusted to the Press Registrar. These include the allocation of newsprint to newspapers based on their circulation. Newsprint is a scarce commodity and an import item entailing a considerable expenditure of foreign exchange. At the same time, as we have noted in Chapter II, there is a tendency on the part of newspapers to exaggerate their circulation. We do not think the solution to the problem lies solely or mainly in increasing the number of circulation checking teams, now numbering five; it will swell the Press Registrar's expenditure without the assurance of corresponding economies in newsprint allocation. We are of the view that the Press Registrar should explore other avenues, discussed below, while continuing to carry out surprise test checks which should be on a sample of big, medium and small newspapers each year as a sample corresponding to the quantity of newsprint allocated to newspapers in each category.

### *Chartered Accountant's Certificate*

4. If a newspaper has a circulation of more than 2,000 it is required to submit a certificate from a Chartered Accountant in support of its claim. Circulation checks by the teams of the Press Registrar have shown that the Chartered Accountants' certificates gave inflated circulation figures in several cases. We asked the Press Registrar's Office to confirm whether the 151 newspapers with a circulation above 2,000, whose circulations were refixed in 1979 at a level lower than their claim, had actually submitted Chartered Accountants' certificates. We were informed that—"the position is that all newspapers with a circulation above 2,000 are required to furnish the Chartered Accountants' certificates. Cases where such a certificate is not attached with the Annual Statement are treated as 'uncertified' (U.C.) and shown as such in the records." As none of those newspapers is shown as U.C. in *Press in India* 1980, they can be presumed to have submitted Chartered Accountants' certificates. The Press Registrar did not, however, refer the case of any of the 151 newspapers mentioned above to the Institute of Chartered Accountants for suitable action. We were informed by the Press Registrar's Office that in the 'sixties a few cases of discrepancies in the circulation as certified by Chartered Accountants and as verified by the Press Registrar's office, were referred to the Institute. In one of those cases the Institute, after due enquiry, recommended to the Calcutta High Court that the name of the Chartered Accountant be removed from the membership of the Institute for a period of three years. In another case the Institute, after enquiry, decided to reprimand the Chartered Accountant. We are of the view that in cases where claims of circulation certified by Chartered Accountants are found to be inflated, the Press Registrar should systematically apprise the Institute of Chartered Accountants of the situation. The Institute has to be vigilant to maintain professional standards just as the Medical Council seeks to maintain certain ethical standards in the medical profession. Disciplinary action should be taken, where it is justified, against Chartered Accountants who give false certificates of newspaper circulation.

### *Regularity of Publication as Criterion*

5. We considered the suggestion of imposition of an excise duty on the production of newspapers as a device to check the tendency to inflate claims of circulations. We had to give up this idea for the reason that it may be construed as a direct tax on knowledge and information, whatever be the position in law. We think the malady can be arrested to a considerable extent if the Press Registrar pays greater attention to verification of the regularity of publication of newspapers. A newspaper which does not



come out regularly—unless it be for reasons beyond its control—cannot be regarded as a genuine newspaper. We are recommending in an ensuing section on “Advertising from Public Funds”, and in the Chapter on “Press as an Industry”, that for allotment of newsprint and issue of advertisements a minimum regularity of 90 per cent in the case of dailies and two-thirds in the case of periodicals should be insisted on. Implementation of this recommendation will preclude non-regular and therefore less than genuine—publications from obtaining newsprint and advertisements.

6. Another important non-statutory function of the Press Registrar is to examine and certify the essential requirements of newspapers such as printing, composing and other machinery, as also consumable articles, which have to be imported. He is also associated in the negotiations for purchase of newsprint abroad and in the formulation of proposals for establishment of newsprint mills in the country.

7. We are of the view that the capabilities and status of the Press Registrar should be commensurate with the responsibilities entrusted to him. We have recommended in the section on the P.R.B. Act in the Chapter on ‘Constitution and Laws’ that the Press Registrar should be an officer with a fixed tenure. Professional background and experience should be considered while appointing the Press Registrar. He need not necessarily be drawn from the Information or Administrative services. It will be useful to set up an Advisory Committee of experts to assist the Press Registrar in the discharge of his non-statutory functions.

8. The Press Registrar has, over the years, been registering a large number of newspapers which bear no resemblance to ‘newspaper’ as defined in the P.R.B. Act. Hence the anomaly of the Press Registrar describing several of the ‘newspapers’ registered by him as ‘non-news interest’ newspapers. He has excluded from his annual reports—despite giving them registration numbers—only a category called ‘miscellaneous publications’ comprising, fiction journals, market reports/bulletins, publicity journals/house journals, school/college magazines and others. We have recommended in Chapter IV that the Press Registrar should henceforth maintain three distinct registers, covering respectively daily newspapers, news magazines of different periodicities, and other periodicals.

9. The Press Registrar’s register has also, over the years, included a large number of newspapers no longer in existence. It is necessary to weed out from the register non-existent publications and publications which are not brought out in conformity with the Press and Registration of Books Act, in the interest of restricting the allotment of newsprint and advertisements to genuine newspapers. It is also essential to keep an efficient watch over the regularity of publication of newspapers all over the country. It is necessary to obviate complaints of delay in disposing of inquiries relating to clearance of titles from intending printers/publishers and in issuing certificates of registration. There is need therefore to strengthen

the organisation of the Press Registrar. We recommend the sanction of an adequate number of regional officers who should be conversant with the languages of the region to which they are posted. At present, the monitoring of regularity of publication of newspapers in languages other than English, Hindi and Urdu is being done by regional units of the Press Information Bureau. This arrangement has not proved satisfactory. Hence our recommendation of Regional Officers of the Press Registrar. They can be located in the existing regional offices of the Press Information Bureau to save overheads on buildings, etc. We noted in this connection that photo officers of the Photo Division are already located in the P.I.B. Offices outside Delhi.

#### *Statistical and Economic Cell*

10. The annual reports of the Press Registrar do not contain data on some important aspects of the Press, for example the average page level of individual publications. We are of the view that such information should be given. The Press Registrar should keep himself informed of all significant developments in the field of newspaper publication including developments in printing technology. It will be useful for the Press Registrar to have a statistical and economic cell with competent staff. He should also have information on the profile of readership of newspapers. He may sponsor surveys in this behalf or co-sponsor them with suitable agencies. Unlike the National Readership Surveys of 1970 and 1978, future surveys should be wide enough in their coverage so as to be useful to policy planners in Government and not only to advertisers and advertising agencies. The Press Registrar should take steps to speed up the printing of his annual reports as otherwise the utility of the reports gets diminished. We observed that the annual report for 1979 containing data of the year 1978 was presented to Parliament only on 2nd March, 1981, and that the annual report for 1980, containing data pertaining to 1979, was presented only on the 9th March, 1982.

#### **(ii) Regulation of Working Conditions of Newspaper Employees**

11. The First Press Commission found that the emoluments received by journalists were, on the whole unsatisfactory. It could not undertake a detailed investigation for fixing scales of pay for different categories of employees. But it recognised the necessity of fixing a minimum wage for the journalist employees and made recommendations relating to the minimum wages to be paid to them. In 1955, the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act was enacted and the Industrial Disputes Act, 1947, was made applicable to working journalists also. Since then two wage boards and a tribunal have examined the wages paid to newspaper employees and made recommendations fixing the scales of pay, allowances, etc., the latest being the Palekar Tribunals which submitted their reports in August 1980. With the successive revisions of the pay scales through Wage Boards, neutralization of the rise in the cost of living and



provision of security of service, the terms and conditions of service of newspaper employees have considerably improved.

12. In our discussions with representatives of newspaper undertakings we came across some criticism of the Award of the Palekar Tribunals in relation to its impact on the economy of newspapers. Proprietors of all small newspapers who gave evidence before us said that the Award had imposed such a great financial burden on them that some of them would be obliged to close down. Their specific complaint was against the classification of newspapers in the Award. It was pointed out that in Class VII, both a small newspaper with a gross revenue on only Rs. 50,000 and a newspaper with a gross revenue of Rs. 10 lakhs would stand on the same footing. Another complaint was that in many cases the pay scales recommended by the Palekar Tribunals were much higher than those of comparable Government staff or workers in other industries. Some questioned the desirability of Government laying down detailed scales of pay for each category of journalist and non-journalist employees as Pay Commissions do in respect of Government employees. It was pointed out by some witnesses that in few other industries had the Government interested itself in all levels of the hierarchy of employees; in most industries, the Government had only laid down the minimum wages to be paid.

13. Representatives of the Indian Federation of Working Journalists, who appeared before the Commission, said on the other hand that right from the time of the First Wage Board, newspapers have been saying that they will close down if they have to carry out the Awards. But this has not happened and newspapers are flourishing. They pointed out that any classification leads to some difficulties initially but they have to be borne.

14. It came to the Commission's notice that many small papers have not been able to implement the Palekar Awards. Some big newspaper undertakings have also not fully implemented the Awards. Some newspaper undertakings have challenged the Awards in courts of law.

15. The Commission did not go into the merits of the Palekar Awards as it was not thought appropriate to do so, especially when court cases challenging the Awards are pending.

### (iii) Communications

#### *Telegraph, Telephone and Teleprinter Tariffs*

16. The Press is given several concessions in telegraph, telephone and teleprinter rates. Telegraph charges for the Press are substantially lower than for ordinary telegraph traffic. A 12½ per cent rebate is given on Press trunk calls to telephones specified for the purpose. The Press is also given concession on teleprinter circuits for which news agencies and newspapers pay markedly less than commercial houses.

#### *Delay in Press Telegrams*

17. A number of representatives of small and medium newspapers who appeared before the commission complained that Press telegrams are often delayed. The Commission held a discussion with a Member of the P&T Board on this question. He admitted that there are frequent complaints about late delivery of Press telegrams and said out-moded technology and staff problems are the two factors mainly responsible. He said there is provision for refund of the money charged if telegrams are delayed beyond a certain time limit. It was pointed out that refund does not undo the damage caused by non-delivery of telegrams. Especially in the case of the Press, if the telegram is delivered late, it defeats the entire purpose.

18. Out-moded technology and staff problems in the P&T Department are larger matters to be attended to by the Government. We would recommend that, even within the present limitations, transmission of Press messages should be given the highest possible priority.

19. While the Press gets a number of concessions in telecommunication tariffs within the country, the position is not equally encouraging in the case of external communications. This is discussed in the Chapter on 'Information Flow: Internal and International'.

#### *Postal tariff for newspapers*

20. The Central Government Budget for 1982-83 has raised the postal tariffs for newspapers. In some cases, the increase is from 100 to 200 per cent. For example, for a single copy of a newspaper not weighing more than 50 grammes, the tariff has gone up from two paise to five paise. We are of the view that increase in the postal tariff hits small and medium newspapers which have to make use of the postal facility. Big newspapers, in most cases, have their own arrangements for transportation and distribution of their copies. We recommend that the Government should sympathetically consider the demand for lowering the postal tariff for newspapers.

#### *Posting Dates*

21. Another matter about which a number of small and medium newspapers complained was delay in the carriage of newspapers by post. At present three days' notice to the Postal authorities is required for a change in the posting date of newspapers. It was represented to the commission that when power fails or a machine man falls ill, newspapers can hardly give three days' notice. We held discussions with officials dealing with postal matters in the P&T Board. We were informed that the stipulation of three days' notice can be waived by the Post Master General if the delay is for reasons beyond the publisher's control, and that this discretionary power could be delegated to the level of Senior Superintendents who are at district level. It was pointed out that it would be difficult for newspapers in small towns to approach even the district level officer.

22. We recommend that the power to waive the condition of three days' notice be delegated further down to as lower a level—Post Masters or Sub-Post Masters—as possible.

#### *Transport of Newspapers by Rail*

23. Representatives of several newspapers complained of late delivery of newspapers by the Railways also. During a discussion with the Director, Safety and Coaching of the Railway Board, the Commission was informed that the highest priority is given to the despatch of newspapers by the Railways; even if newspapers are booked at the last moment, an effort is made to transport and deliver them at the destination on time. It would appear that while newspapers may be entitled to the highest priority in theory, staff at the lower rungs may not be implementing the priority in practice.

24. We recommend that the Railway authorities should take special steps to see that the departmental instructions giving the highest priority to newspapers are observed.

25. The attention of the representatives of the Railways who appeared before the Commission was drawn to the fact that a few contractors have a monopoly in vending newspapers at railway stations. We are of the view that as far as possible, this monopoly should be broken and competition encouraged. There should be at least two competing book-stalls at big railway stations. A suggestion we would like the railway authorities to examine is to involve Press organisations while working out arrangements for the vending of newspapers at railway stations.

#### **(iv) Accreditation of Correspondents**

26. The system of accreditation of journalists by the government can be traced back to the pre-independence days. Before 1940, Press correspondents used to be accredited by the Home Ministry after ascertaining their political views. During the Second World War, the accreditation function was given to the Press Advisory Committee. On the recommendation of the First Press Commission, the Press Advisory Committee was abolished and its functions were given to an Accreditation Committee at the Centre. Rules for accreditation have been amended from time to time and the rules now in force were framed in February 1978. They are reproduced in Appendix VIII.1. Similar rules are in force in most of the States.

27. Usually correspondents alone are considered for accreditation. But editors of dailies and weeklies published from Delhi can be extended 'working' facilities required for the discharge of their professional duties.

#### *Position in Other Countries*

28. The accreditation system which obtains in India is unique in many respects. In Britain, accreditation is by convention only. In the Federal Republic of Germany, accreditation is unknown as Government and public authorities are legally bound

to provide information. In France also, there is no system of accreditation. In the United States, there are no uniform criteria for accrediting correspondents. In Australia, a police pass is issued to each member of the Journalists' Association which is sufficient to gain access to judicial proceedings and other official and semi-official activities. In Japan, Press Clubs usually organise press conferences. In Sweden, a press card issued by the journalist's newspaper is enough to authorise his or her participation in press conferences and briefings.

#### *Negative Features of the System*

29. A peculiar feature of the system of accrediting correspondents in India is that apart from giving access to Government information, in many cases it also makes a journalist eligible for concessional housing, travel and transport. It has led to undesirable discrimination in some cases. During the course of the discussion held by the Commission with representatives of small and medium newspapers, there were several complaints that they had been denied the facility of accreditation. They said that some of the rules for accrediting correspondents are restrictive and work to the disadvantage of small newspapers.

30. Editors of some newspapers who appeared before the Commission made the point that while correspondents nominated by them get accreditation, they are themselves denied the facility.

#### *Accreditation Committee*

31. A study done for the Commission (Study No. 80) by a former Deputy Principal Information Officer of PIB says that in many cases the Central Press Accreditation Committee virtually sits in judgement on the professional competence of a journalist. Limiting of the number of journalists to be accredited does not allow specialisation to grow.

32. From 1955 to 1971, there was no government representative on the Central Press Accreditation Committee (CPAC) apart from the Principal Information Officer, who was the convener. In December 1973, two Government nominees were added to the Committee. The Committee was reconstituted in February 1976, during the Internal Emergency, with three Government nominees. This reconstituted CPAC recommended the non-renewal of accreditation of 29 journalists and six cameramen. On the reasons for this, the White Paper issued by the Government in August 1977 says: "There is no record either in the minutes of the meeting of the Committee held on February 14, 1976 or elsewhere to show what exactly was against each of these correspondents in terms of Rule 12 : The accreditation of some of them was cancelled on the ground that they were connected with the RSS which was a banned organisation, a consideration which was not covered by the Rules." After the change of Government following the March 1977 General Elections, the Committee

was reconstituted in July 1977, this time with no Government representatives. PIO continues to be the convenor of the Committee.

33. The Central Accreditation Committee was again reconstituted in August 1979. At present, it consists of 17 Members representing the following organisations:

(i) Indian Federation of Working Journalists . . . . .	4	nominees
(ii) All India Newspaper Editors Conference . . . . .	4	"
(iii) National Union of Journalists . . . . .	2	"
(iv) All India Small and Medium Newspapers Association . . . . .	1	nominee
(v) All India Small and Medium Newspapers Federation . . . . .	1	"
(vi) Working Cameramen's Association . . . . .	1	"
(vii) Editors Guild . . . . .	1	"
(viii) Press Association . . . . .	2	nominees
(ix) News Cameramen's Association . . . . .	1	nominee
Total . . . . .	17	

34. We note with approval that with the latest reconstitution the Accreditation Committee has been made more broad-based by including representatives of four organisations (numbers iv to vii). However, the representation of different organisations is not uniform. While two organisations have four representatives each and two have two representatives each, five organisations have only one representative each. As decisions in the Accreditation Committee are generally taken by consensus, we are of the view that the representation of all recognised organisations should be on a uniform scale. There is also need to review the representative character of different organisations from time to time so that the Accreditation Committee enjoys the confidence of the profession. This review can appropriately be done by the Press Council, as we have noted in Chapter VII.

35. At the State level, most of the Accreditation Committees consist of journalists.

36. The Commission discussed the merits of the system of accreditation with the Principal Information Officer who admitted that it has been abused over the years and has become restrictive. He said there is need for an open Information Policy and that PIB should be able to cater to different emerging aspects of journalism including specialised as well as current affairs journals of periodicities longer than a week.

37. The Commission noted complaints to the effect that some accredited correspondents help parties other than newspapers to get information. The system leads to a distinction between the few journalists who are accredited and the many who are not.

38. We acknowledge that in the existing circumstances in India, accreditation cannot be done away with. It is necessary because no Department of the Government can cope with an unlimited number of persons claiming to be journalists and seeking immediate information. We are of the view that accreditation should be retained as a facilitating measure; it should not mean that the door is not open to genuine journalists other than accredited correspondents. Dr. Paranjape, however, is of the view that any journalist who is recommended as a correspondent by his paper should be accredited.

39. The accreditation rules should not be applied in a restrictive way. The procedures for accreditation should be liberalised so that the facility is more easily available to small and medium newspapers. We are of the view that the editor of a paper should get accreditation if he seeks it provided that the Accreditation Committee is satisfied that the editor is professionally involved in the production of the paper and is not merely its owner or the owner's nominee. Accreditation in the case of editors should ordinarily be limited to dailies and news agencies.

40. While the Commission is generally of the view that the Central Government Accreditation rules can continue with suitable modifications in the light of its recommendations, Dr. H.K. Paranjape has reservations about clauses (iii) and (vi) of Rule 16 which provide for disaccreditation in certain cases. These clauses provide that a news media representative will be liable to disaccreditation if "he publishes official secrets, the inviolability of which is accepted by general understanding and the Central Press Accreditation Committee concurs with this view after giving him opportunity of a personal hearing", and that "news media organisations will also be liable to disaccreditation if they are responsible for wilful publication of *mala fide* reports or abuse confidence". Dr. Paranjape is of the view that these clauses are capable of misuse and that the question of a journalist violating official secrets should be decided by a court of law and not by the Central Press Accreditation Committee.

41. In Delhi as well as in State and Union Territory headquarters, Information Department Offices are generally located in secretariat buildings, entry to which is regulated. While we recognise that the functioning of these offices will become impossible if all and sundry choose to crowd them, there is need for freer access to such offices.

#### (v) Housing and Travel Facilities For Journalists

##### *Housing for Journalists*

42. Correspondents accredited to the Press Information Bureau in Delhi and to some State Governments are allotted Government residential accommodation at rents which are very much below the commercial level. In Delhi, there is a separate Press Pool of 110 dwelling units. States which give this facility

include Haryana, Himachal Pradesh, Jammu & Kashmir, Madhya Pradesh, Manipur, Orissa, Punjab, Tamil Nadu and Uttar Pradesh.

43. Some guidelines for allotment of houses from the Pool in Delhi were formulated in 1972. It was decided that "government accommodation should not in future be allotted to Press Correspondents and news cameramen whose emoluments are above Rs. 2000 per month; who are in receipt of house rent allowance from the management; who have been allotted plots of land by government in and around Delhi and who have houses of their own in Delhi". Twelve and a half per cent vacancies in the Pool were reserved for out-of-turn allotment in deserving cases on the recommendations of a screening committee. During the Internal Emergency, a decision was taken in August 1976 to abolish the Press Pool. This was modified in December 1976 when correspondents with houses of their own were required to vacate government accommodation. With the change of government in 1977, the Press Pool was revived as part of the restoration of the situation that prevailed before the imposition of censorship.

#### *Special Treatment in Respect of Rent*

44. In 1947, when the first set of eight dwelling units for journalists was released in Delhi, the allottees were charged rent under FR 45-B, which is the market rent. When the Press Pool was created in 1953, it was decided that the correspondents would pay rent under FR 45-A which is the low—to the point of nominal—rent paid by government employees. This was objected to by the Finance Ministry. Following a discussion with the then Minister of Works & Housing and representatives of the Press Association, it was agreed that Press representatives would continue to pay the concessional rent charged from government employees. The position, more or less continues to be the same. At present, journalists allotted Government accommodation are charged the pooled standard rent or 10 per cent of pay, whichever is higher. This works out to a little more than what Government employees pay which is the pooled standard rent or 10 per cent of pay whichever is lower.

45. Apart from allotments from the Press Pool, certain members of the Press have also been allotted government accommodation on an *ad hoc* basis either on the recommendation of the PIB or under special orders of allotment passed by Ministers or senior officers. In 1979, 13 houses from the General Pool were allotted to journalists in this manner. Three of them were not accredited to the government.

46. Apart from allotment of government residential accommodation, journalists have been receiving other kinds of housing assistance. In the sixties, the Delhi Development Authority (DDA) allotted land in Gulmohar Park area of South Delhi to a group housing co-operative society of journalists. The price charged was Rs. 7 per sq. yard, the prevailing land acquisition rate. In 1972, DDA allotted land at Saket near Malviya Nagar to another group housing co-operative society of journalists. The society was charged for the land at the rate of Rs. 54 per square meter.

47. In several States, there is reservation for accredited journalists in the sale of house building plots or government-built flats. Almost all States which offer government accommodation to journalists do so at concessional rates. Some States Governments do not bother to collect even the concessional rent and the journalists concerned are happy not to pay. *Indian Press* (monthly journal of the Indian & Eastern Newspapers Society) in its issue of May 1978, carried an article which stated that there were huge arrears of rent due from journalists who had been allotted Government accommodation in Bhopal. We sought factual information from the Director of Information of the Madhya Pradesh Government. His reply shows that there are 87 journalists who are in arrears of rent to the Madhya Pradesh Government. The highest amount of rent outstanding against a journalist is Rs. 23,974.10; he has been in arrears for 76 months. Three of the journalists have to pay more than Rs. 10,000 each, and 24 are in arrears to the extent of more than Rs. 5,000. One journalist has been in arrears for 97 months, and another for 91 months.

48. Different points of view were expressed during discussion in the Commission as well as by witnesses on the question of providing housing at subsidised rates to journalists. It was recognised that, to some extent, the provision of housing is discriminatory as government houses cannot be allotted to all the accredited correspondents, not to speak of all journalists, at a particular place. The Principal Information Officer told the Commission that out of 615 correspondents accredited to the Government of India in Delhi, only 110 could be allotted houses from the Press Pool. It was also brought to the notice of the Commission by a Member that the facility of housing is being abused in some cases. Houses allotted from the Press Pool have been sub-let, or even given out completely on rent.

49. The Commission is of the view that anything that smacks of patronage should be avoided. If central location is the justification for allotting government houses to journalists or other categories of citizens, the provision of adequate public transport would be the non-discriminatory answer to the problem. While we recognise that accredited correspondents can, and several of them do, render valuable service to society, we are unable to persuade ourselves that accredited correspondents as a class are more useful to society than teachers or public health staff.

50. We recommend that no further housing facility should be provided to journalists and that the existing allotments of government accommodation in the national capital and the States should be charged for at non-subsidised rates and phased out as the present occupants leave. S/Shri K.R. Ganesh and Girilal Jain do not agree with this recommendation. According to them provision of Government housing for journalists has not affected the freedom of the Press, and the facility should be continued.

#### *Travel facilities*

51. Apart from housing, correspondents accredited to the Central and State Governments enjoy certain other facilities. Fifteen States and three Union

Territories offer road travel concession of varying degree to accredited Press correspondents.

52. Press correspondents accredited to the Central Government, State Governments and Union Territory administrations used to enjoy concessional rail travel facility for journeys undertaken by them in the course of their professional work but it was withdrawn in November 1981. The concession in fare was 15 per cent in First Class and 50 per cent in Second Class. In reply to an unstarred question (No. 961) in the Rajya Sabha on 3rd March 1982, the Deputy Minister of Railways, Shri Mallikarjun, said the concession was withdrawn on the recommendation of the Rail Tariff Enquiry Committee as the expenditure on travel by the correspondents is essentially a business expense which should legitimately be borne by their employers.

#### (vi) NEWSPAPER FINANCE : LOANS AND DEVELOPMENT ASSISTANCE

53. One of the reasons for the slow growth of the Press brought out in Chapter II is non-availability or inadequacy of finance for newspapers. This has also resulted in concentration of ownership in the Press. The fruits of growth of the Press have gone mainly to big business groups and established family units which have been able to expand. Smaller newspapers have in most cases either failed to take off or floundered after a short while because of economic problems.

54. With the change in the technological and economic infrastructure needed for the Press, newspapers' requirements of finance have risen steeply in the past three decades. There has been a big increase in raw material costs, especially that of newsprint, and in the wage bill. When the costs go up or there is a hike in the wage bill because of the implementation of Wage Board Awards, big newspapers are able to make it good by increasing the advertisement rates and the sale price of the newspaper. Smaller newspapers have far less scope for doing so because of the economic profile of their readership and the fear of losing even such limited advertising as they carry.

55. Because of our familiarity with the British and U.S. experience, there is a widespread notion that freedom of the Press and governmental subsidies are incompatible. The fact is that in several West European countries direct subsidy or soft loan schemes for the Press have been initiated (Appendix VIII. 2) since the late sixties to help newspapers meet their mounting financial difficulties. Typically in Europe, these difficulties have taken the form of escalating raw material costs, labour pressures and circulation losses leading to closures, increasing concentration of ownership and growth of local monopolies. In most European countries, the purpose of the direct subsidy schemes related to newsprint consumption, is to help newspapers trailing behind their bigger rivals in a particular market. Soft loans are for modernisation of plant to enable the second-position papers to improve their competitive situation.

#### *Availability of credit for newspapers*

56. From inquiries made with the concerned Departments of the Government, State-run credit institutions and the newspaper industry, it was found that term-lending financial institutions have since 30th October 1978 considered newspapers as coming neither in the category of priority industries nor in the category to which no assistance is to be given. They fall between these two categories. A senior official of the Ministry of Finance told the Commission that the reasons for this are the limited resources available and the industrial policy which outlines the goals to be pursued. He said although the Press is not in the prohibited list, "it probably has a very low priority". The Ministry of Finance informed us that inclusion in the priority list does not by itself entitle an industry to concessional terms of finance. Concessional terms are available if a unit is in the backward area (the rate of interest is 12.5 per cent against the normal of 14 per cent) or if it falls in the composite loan category of less than Rs. 25,000 (the rate of interest for the unit being 10.25 per cent in the backward areas and 11.5 per cent in other areas) or if a unit is in the small scale sector (the rate of interest is 12.5 per cent in the backward areas and 13.5 per cent in other areas).

57. Up to the end of June 1980, the Industrial Development Bank of India (IDBI) had granted a refinance assistance to only two newspaper undertakings (both big), Kasturi and Sons Ltd., Madras and Mathrubhumi Printing and Publishing Company Ltd., Calicut.

58. The terms and conditions of the Industrial Credit and Investment Corporation of India (ICICI) for giving loans to the newspaper industry are the same as for other industries. It had assisted three newspaper groups in importing equipment up to 31st March 1981. These are the Indian Express Group, Kasturi and Sons Ltd. and the Statesman Ltd.

59. The Industrial Finance Corporation of India (IFCI) said it considers the newspaper industry in the same manner as any other industry for the purpose of grant of loans. It has not financed any newspaper undertaking in recent years.

60. Though the definition of small scale industry has been enlarged by the Government to include industries with a capital of upto Rs. 20 lakhs, small and medium newspapers do not get the facility. The National Small Industries Corporation (NSIC) does not extend assistance to printing units which intend to use the equipment for publishing newspapers or periodicals. In response to our query, the Corporation said that it is following the instructions issued in this respect by the Ministry of Industry. When we took up the matter with the Ministry of Industry, we were informed that newspaper enterprises have been excluded from NSIC assistance as they are generally composite units having their own printing presses and besides there are other avenues for the small and medium newspapers to get assistance. In support of

this view, the Ministry's letter of 4th February 1982 said that recently small newspapers have been included within the priority sector for the purpose of grant of loan by banks.

61. We are of the view that there is no justification for excluding newspaper establishments from assistance for acquiring printing machinery through the National Small Industries Corporation. We have noted in this connection that the Executive Committee of the Indian Language Newspapers Association at its meeting in January 1978 suggested to government to make printing machinery available to small newspapers/periodicals under the hire-purchase scheme of NSIC and also treat them as small scale industries. ILNA further wanted credit—both long term and short term—to be made available on concessional terms for : (a) Consumable items like newsprint, types and metals, spare parts and other accessories ; (b) Printing machinery ; (c) Building ; (d) Vehicle ; and (e) Working capital.

62. Information received from the State-level Financial and Small Industries Corporations indicates that they do not follow a uniform policy. While some of them have given substantial amounts as loans to newspapers, other have not given even a rupee. A list of the State financial corporations approached for the information, details of the assistance extended by some of them to newspaper companies, and the newspapers and periodicals of different categories controlled by these companies are given in Appendix VIII. 3.

#### *Credit mostly for big papers*

63. It is clear from the information given above and in Appendix VIII. 3 that assistance from term lending institutions has been availed of mostly by a few big newspaper undertakings. A number of representatives of small and medium newspapers told the Commission that they are not able to get finance and loans because of the harsh requirements of security and margin. This was stated to be the case in respect also of loans from commercial banks to meet working capital requirements.

#### *Difficulties in securing Working Capital*

64. A memorandum dated 20th January 1978 submitted to the Government of India by the Indian and Eastern Newspapers Society (IENS) pointed out that because of the long credit period (generally of 75 days) that is available for advertisements released through the accredited advertising agencies, the working capital requirements of newspapers are larger than those of most other industries. IENS wanted the large margin requirements for this type of cash credit from the banks to be reduced substantially. It also wanted the Bill Market Scheme of the Reserve Bank of India to be made applicable in the case of the sale of advertisement space by newspapers. The IENS memorandum wanted commercial banks to give working capital to the industry against the large inventory of raw materials maintained by it. We recommend that these suggestions may be considered with sympathy.

65. We welcome Government's decision, noted in paragraph 60, to include small newspapers within the priority sector for the purpose of grant of loan by banks. We are of the view that such small and medium newspapers as come within the definition of small scale industry should be treated as such and enabled to get loans at the rate of interest applicable to small scale units.

#### *Finance Corporation for newspapers*

66. Over the years the Government has been considering the possibility of supplementing the existing channels of credit by setting up a finance corporation exclusively for newspapers and specially in order to assist small and medium papers.

67. In November 1968 a request for financial assistance was received by the Government from the proprietors of two Gujarati dailies *Janasatta* and *Lokasatta*, which were at that time independent newspapers (they were later taken over by the Indian Express Group). As it was thought that the newspapers would pass under the control of a chain if they were not helped (this actually happened later), the Ministry of Information and Broadcasting wanted to give a sizeable loan to them. But it was thought appropriate to refer the matter to the Press Council before granting a loan.

68. The Press Council expressed the view that a direct loan by Government to a newspaper or a group of newspapers would in principle be improper as it might impair the freedom of the Press. It advised that a long-term solution to the problem of failing newspapers would be to set up a Press Finance Corporation with an independent board with powers to help such newspapers.

69. A Bill to set up a Newspaper Finance Corporation on the lines suggested by the Press Council (Bill No. 126 of 1970), was introduced in the Lok Sabha. The main features of the Bill and the points on which it differed from the Press Council recommendations are given in Appendix VIII. 4. The Bill lapsed with the dissolution of the Lok Sabha preparatory to the mid-term elections of 1971. Reintroduction of a similar Bill, with some modifications, was considered during 1973. By this time, delinking of newspaper ownership from business houses had also begun to be thought of. It was intended that the Bill for creation of a Newspaper Finance Corporation and the Bill on Delinking and Diffusion were to be taken up together. Neither of these Bills was proceeded with ultimately.

70. While the Ministry of Information & Broadcasting has uniformly been in favour of a distinct Newspaper Finance Corporation, the Finance Ministry has been of the view that a separate Corporation for assisting newspapers is not necessary. In 1974, the Finance Ministry pointed out that if it was Government's intention to give soft loans to smaller newspapers, the National Small Industries Corporation could set up a special wing for this purpose.



71. The Fact Finding Committee on Newspaper Economics (FFCNE) in its Report submitted in 1975, said that the problem of the working capital requirements of newspapers cannot be solved by starting a specialised type of institution. It was of the view that the facilities offered by the National Small Industries Corporation and similar bodies should be available to small and medium papers if they satisfy the conditions regarding credit-worthiness.

72. The question was also considered at the Conference of State Ministers of Information held in November 1977. The Conference took note of the fact that while credit facilities of financial institutions are available for establishing printing presses, the facility is not available for the starting of a newspaper. The Conference was of the view that appropriate measures should be considered by the Ministries of Information & Broadcasting and Finance to enable financial institutions to provide credit facilities to small and medium newspapers in particular. Such measures should include concessional rates of interest and extended repayment period.

### RECOMMENDATIONS

73. We considered the question whether second-line newspapers should be given outright subsidies, as is done in some West European countries. We rejected this approach for two reasons. First, we do not have in India the problem of mergers and a diminishing range of choice of newspapers for readers as is the case in the U.S.A. and several other Western countries. The latest example is the closure of the *Washington Star* in August 1981, which made the U.S. capital a one-newspaper city. On the contrary, the number of newspapers in our country is steadily on the increase, though not at a uniform rate in all regions, and there is no problem of local monopoly in the greater part of the country in terms of the number of newspapers. Secondly, we are of the view that in the prevailing atmosphere of animosity between political parties and the tendency to exercise executive discretion for the advantage of the party for the time being in power, a system of direct financial subsidy to individual newspapers would be liable to be misused.

74. As noted earlier, big newspaper undertakings have been able to secure credit on a significant scale from the apex credit institutions. As regards a separate financial corporation to extend credit to small and medium newspapers, we see no need to add to the already large number of existing credit institutions. The overheads of a new corporation can be saved by allotting a priority status to small and medium newspaper undertakings for credit from the nationalised banks, State Finance Corporations and institutions for the promotion of small-scale industries, subject to the conditions as regards credit-worthiness, security, etc. It is as important for a newspaper as for any other enterprise to satisfy the conditions prescribed for the benefit of credit from public financial institutions.

#### *Newspaper Development Commission*

75. There is, however, need for a body which will promote the development of the Press as a whole,

as distinct from individual newspapers. The promotional effort we envisage will be in directions which will facilitate the growth in particular of Indian-language newspapers of whatever circulation category, and of local interest and other publications of small and medium size in terms of circulations. We recommend the establishment, for the purpose, of a Newspaper Development Commission which will offer its assistance on a generalised, non-discriminatory and non-discretionary basis; it will not give financial subsidy directly to an individual newspaper. The objects which we envisage for the Commission are:

- (i) To promote R & D in the newspaper industry, particularly research in and development of teleprinters in Indian languages and of composing and printing technologies suitable for small and medium newspapers;
- (ii) To promote the development of Indian language news agencies and to oversee the financial health of news agencies in respect of their domestic operations and the rates of subscription available to them from newspapers and Government subscribers such as AIR & Doordarshan;
- (iii) To provide development assistance to the Press, especially to small and medium newspapers, through such means as the provision of subsidised teleprinter services on a non-discriminatory basis;
- (iv) To arrange supply of newsprint to newspapers, other than those belonging to newspaper chains, in interior or remote areas at prices comparable to those prevailing at port-towns;
- (v) To assist the emergence and growth of daily newspapers in remote and interior areas by subsidising the extension of the news agencies' teleprinter links;
- (vi) To assist in obtaining for newspapers and news agencies reasonable tariffs for internal and external communication;
- (vii) To appraise proposals for the publication of daily newspapers by the Government in areas without a daily Press, and, if the Commission approves the proposal, to advise on the kind of newspaper that should be brought out.
- (viii) To liaise with various Government Departments concerned with the needs of the newspaper industry;
- (ix) To promote and coordinate training in journalism (including of 'katibs' for Urdu papers) in case the Press Council does not assume this function as recommended by us in Chapter VII;
- (x) To provide financial assistance through grants to institutions engaged in R & D in newspaper publishing;



- (xi) To commission studies relevant to the promotion of the above objects; and
- (xii) To undertake such other functions as the Commission considers to be appropriate in pursuance of the above objectives.

Dr. H.K. Paranjape is not in favour of item (xii).

#### *Composition*

76. (1) The Commission should be headed by a full-time Chairman. He should be a person with experience of finance, industry, development administration or newspaper management and generally well versed in public life but not connected with any newspaper undertaking at the time of appointment.

(2) Two whole-time Members (Managing Directors): one of them should be an expert in economics, finance and accounts; and the other an expert in journalism in particular and mass communication in general.

(3) Three representatives from newspaper organisations like IENS, ILNA and AISMNA.

(4) Three representatives of Working Journalists, provided that at least two of them shall be persons with wide professional background in Indian language journalism.

(5) Chairman of the Press Council or his nominee.

(6) Chairman of the Indian Institute of Mass Communication Society or his nominee.

(7) One representative each from the Ministries of Information & Broadcasting, Finance and Industry.

Membership of the Commission should be rotational, with one-third of the Members retiring every year or every two years.

#### *Funding*

77. In addition to an initial grant by the Government, the Commission should be funded through a small cess on all newsprint consumption by newspapers (including newspapers whose average page level is 12 pages or less); and a tax on the advertisement revenue of newspapers with suitable exemption limit. For earmarking income from a tax on advertisement revenue for the Commission, an amendment of the Constitution will be needed. Sub-clause (f) of Clause (1) of Article 269 (namely, "tax on the sale or purchase of newspapers and on advertisements published therein") will have to be deleted and suitable amendment made to ensure that the advertisement revenue is given to the Newspaper Development Commission. By this the States will not lose anything that they presently enjoy, since this taxation power has not been exercised by the Government of India over the last three decades.

78. The Newspaper Development Commission may set up Advisory Councils for each language. There can be more than one body for languages like Hindi, English and Urdu which are multi-State languages. The Advisory Councils should consist of journalists and persons eminent in the literary and cultural fields.

79. The Advisory Councils set up by the Newspaper Development Commission could be consulted by financial institutions on the quality of a newspaper seeking credit.

#### *(vii) Allotment of land to Newspapers*

80. In Delhi, as well as at several state capitals and elsewhere, plots of land have been allotted by the Government to newspapers and news agencies on concessional terms. In Delhi, 13 newspaper companies/news agencies/news organisations have been allotted plots of land by the Land and Development Office of the Ministry of Works & Housing on concessional terms so far. A list of the newspaper companies, etc. which have been allotted plots of land on concessional rates and the yearly ground rent/licence fee being paid by them, is given in Appendix VIII.5.

81. Newspaper undertakings which have been allotted land at concessional rates were required to execute two lease agreements with the Government. One is for perpetual lease of the land, and the other, called 'agreement for lease', covers the construction of building or buildings on the land and its use. The main features of the terms and conditions of allotment of land to newspapers are given in Appendix VIII.6. It is apparent from the terms and conditions of lease that such newspaper undertakings cannot lease the plots or buildings constructed on them on rent to third parties without permission from the Government. A number of witnesses emphasised that the income derived from such plots or buildings constructed on them should be utilised only for the development and growth of the newspapers concerned and not for enriching the publisher in his personal capacity.

82. The Commission's efforts to find out the use made by newspaper companies of their rental income from buildings constructed on plots allotted to them at concessional rates were hamstrung by lack of quick response from the Government and the Municipal authorities as well as newspaper companies to our queries. But our limited efforts in this direction have revealed some discrepancies. It came to our notice that in one case, the land was claimed to have been allotted not to the newspaper but to the proprietors in their personal capacity.

83. The allotment of land to newspapers has been a matter of controversy at the State level also. In the recent case of allotment of land in Bhopal to a multi-edition newspaper group, it was alleged in newspaper reports that the land was allotted at a rate considerably lower than that charged from other establishments. We wrote in this connection to the Chief Secretary to the Government of Madhya Pradesh to find out the correct position but there was no reply.

84. We are of the view that the whole purpose of allotting land to newspaper undertakings at concessional rates would be defeated if the income derived from land and buildings built on them is not utilised for development of the newspaper or newspapers concerned. Concessional allotment of Government land should not lead to personal enrichment of the owners of undertakings. The Central Government in the Union Territories and the State Government should go into this matter and take appropriate action wherever it is found that the lease agreements have been violated.

85. Dr. Paranjape is of the view that the Press Commission need not concern itself with punishment for violation of the terms of agreements, which is a normal duty of the authorities.

86. In view of the possibility of discrimination in the allotment of Government land directly to newspapers at concessional rates, we recommend that in future all such allotments should be done through the Newspaper Development Commission, the establishment of which is recommended earlier in this chapter. The proposed Commission should also monitor the utilisation of land and buildings in accordance with the approved purpose and in conformity with the rules.

#### (viii) Advertising from Public Funds

##### *Share in total Press advertising*

87. Though exact estimates of the amount of government and public sector advertising are not available, it is believed that the Central and State Governments, public sector undertakings and other public bodies account for more than one-fourth of the expenditure on Press advertising in the country.

88. The Press and Advertisers Year-Book 1981, brought out by the India News and Feature Alliance, says that of the total Rs. 103 crores of advertising received by 266 reporting member newspapers of the Indian and Eastern Newspapers Society in 1979, the Central and State Governments (excluding public sector undertakings) accounted for Rs. 10.89 crores or roughly 10 per cent. Public sector undertakings are estimated to be spending around Rs. 20 crores on Press advertising a year. If these figures are added up, it would appear that about 30 per cent of Press advertising is directly or indirectly controlled by the State. The member publications of the Indian and Eastern Newspapers Society are mostly big and medium newspapers. However, it is in these categories of newspapers that the bulk of government expenditure on advertising is incurred.

89. A study of newspaper contents (including advertisements) carried out for the Commission by the Operations Research Group showed that, during the period of the study (15th February to 15th May 1981), the government sector in the total advertising space was not greater in the smaller dailies as compared to the bigger ones. The current advertising policy of the Central Government (in effect from 1st October 1980) specifies that "small and medium newspapers, particularly those published in regional languages

will be given more consideration." This is reflected to some extent in the fact that newspapers in the small category have a fairly high share in the display advertisements released through the Directorate of Advertising and Visual Publicity. But in the classified advertisements category, where the necessity of reaching a particular class of readership or audience is greater, the share of small and medium newspapers is much less.

90. D.A.V.P. has in recent years had about 2,000 newspapers on its media list. An analysis was made of 1521 newspapers which were identified as being among the recipients of the D.A.V.P. advertisements in 1980-81. The analysis showed that the distribution of the newspapers was as follows:

	English	Indian languages	Total
Big newspapers . . . . .	20	109	129
Medium newspapers . . . . .	30	204	234
Small newspapers . . . . .	149	1009	1158
Total . . . . .	199	1322	1521

Of the 1521 newspapers, 520 were dailies, 519 weeklies, 91 fortnightlies, 323 monthlies, 51 quarterlies, 3 half-yearlies and 14 annuals. Appendix VIII.7 gives the break-up and percentage of DAVP advertisements (classified and display) which went to small, medium and big newspapers from 1972-73 onwards.

91. Though Government and public sector advertising as seen above amounts to only about 30 per cent of the total advertising through the Press in the country, the share of advertising from all public funds—including advertisements of universities, High Courts and lower courts, etc.—is likely to be at least one-third. Advertising from public funds is therefore of public concern and, sometimes, of controversy.

#### *Advertising Policy*

92. This is because there is a general feeling that advertising is used by the Government not merely as a means of communication but also as a means of financial assistance to small papers and sometimes also as an instrument for punishing or rewarding a paper for its policy. This is despite the fact that the Central Government as well as some of the State Governments have formally laid it down in their advertising policies that the aim is to secure the widest possible coverage. A recent instance of advertising policy being utilised for purposes other than communication of information to the public is in the move in certain States to reduce the advertising rates of newspapers which have not implemented the award of the Palekar Tribunals.

93. The advertising policy of the Central Government (Appendix VIII.8) lays down that "The primary objective of government advertising is to secure the widest possible coverage through newspapers/periodicals within available funds. . . . Government advertisements are not intended to be a measure of financial assistance to newspapers."

94. Advertising policies of many State Governments (Appendix VIII.9) also claim that the aim is to reach the largest possible number of people. But there are some exceptions. The Bihar Government policy provides that the 'tone, temper and policy' of a newspaper will be taken into consideration while placing advertisements. The Jammu & Kashmir Government has stipulated explicitly that display advertisements will be issued to newspapers which "broadly support the government policy".

#### *Machinery for handling Government advertisements*

95. At the Central level, the Directorate of Advertising and Visual Publicity (DAVP) handles both the display and classified advertisements of the Government of India except the Railways. The DAVP releases advertisements directly to newspapers and not through private agencies. Because of this, DAVP secures 15 per cent agency commission from newspapers for all its display advertisements. A number of public sector undertakings also make use of DAVP's services.

96. At the State level, the Directorate of Information and/or Public Relations handles advertising by Government Departments in many States. In some cases, departments like the Public Works Department release their advertisements directly. Public sector undertakings mostly release their advertisements directly.

97. Till the mid-seventies, there was no fixed yardstick at the Centre for settling advertising rates of various types of newspapers. Every case was decided on its merits based on the paper's circulation, format, production standards, standing and media value.

98. To streamline the procedure, a Committee was set up in 1976 and it evolved a formula based on the cost of production of a newspaper. The formula had a built-in provision for helping small and medium newspapers. The rate structure also provided for special weightage of Rs. 10 per column centimetre to newspapers which subserve 'social objectives and national policies'. Weightage up to Rs. 5 per column centimetre was admissible to publications from border and remote areas as also those exclusively catering for children, youth, women, art, culture, science and other technical and specialised interests. This rate structure came into force from 1st February 1977.

99. Following the change of Government at the Centre in 1977, the formula was amended and the weightage of Rs. 10 and Rs. 5 was dropped on the ground that it gave undue scope for the exercise of executive discretion. The revised rate structure was made applicable uniformly to all categories of newspapers irrespective of their place of publication or contents. It came into force from 1st May 1977. The rate structure was further modified in October 1978 by introducing equality of rates between English and Indian language newspapers in the same circulation ranges.

100. A complaint voiced by many witnesses on behalf of newspaper undertakings—both big and

small—was that the rates offered by DAVP are very low.

101. To find out the basis for fixation of DAVP advertisement rates, we approached DAVP and the Ministry of Information and Broadcasting several times for a copy of the Rate Structure Committee's Report. We also asked DAVP and the Ministry of Information & Broadcasting for information on the value and rates of advertisements given to individual newspapers. This would have enabled us to examine whether there is any truth in allegations that some newspapers are favoured while others get a raw deal in the fixation of advertisement rates and release of advertisements by DAVP. Despite several reminders the information sought by us was not forthcoming.

102. Most State Governments follow the DAVP rates. But in some cases they enter into negotiations with individual newspapers for fixing the advertisement rates. A number of representatives of small and medium newspapers told the Commission that they are at the mercy of the State Governments in the matter of fixation of advertisement rates. They have to accept whatever is offered.

103. There are at present about 2,000 newspapers on the Media List of DAVP. Any newspaper/periodical fulfilling the conditions of eligibility laid down in the advertising policy is considered for empanelment on receipt of an application.

104. In the case of the State Governments, it was mentioned by several witnesses that release of advertisements to them depended upon their relations with the State Government. They alleged that inclusion or exclusion from the Media List was in many cases arbitrary.

#### *Complaints of misuse of Government advertising*

105. As noted earlier, advertising by the Government over the years has tended to be regarded not as an exercise in communication but as patronage that may be extended or withdrawn depending upon the political complexion of the Government in office and the line followed by a newspaper. As would be clear from a perusal of Appendix VIII.10 on 'Government advertising as Patronage', the aberrations were not restricted to the Internal Emergency period. There have been fluctuations in the amount of advertisements released to various papers during the periods in office of Governments of different hues.

106. The dissatisfaction with the advertising policies as followed by the Central and State Governments is brought out in the replies to a questionnaire on Government Advertising issued by the Commission. In reply to the question: "Do you feel that the policy gives an undue advantage to any section of the Press?", 332 of the respondents replied in the affirmative. Only 60 said 'no'.

## RECOMMENDATIONS

107. In the course of discussion in the Commission as also with representatives of big, medium and small newspapers, there were two views expressed on the question whether Government advertisements should be used as a means of communication only or also as an aid to small and medium newspapers.

108. The Fact Finding Committee on Newspaper Economics (1975) was of the view that "the policy of the Government regarding the allocation of, and payment for, official advertisements should be re-examined and that Government aid to newspapers should be more direct than the indirect subsidy through ineffective advertisement outlay".

109. We broadly agree that advertisements should be considered as a means of communication and should be directed to newspapers according to the audience intended to be reached. This will necessarily entail the utilisation of Indian language and small newspapers catering for sections of the public in mofussil and rural areas which the big papers do not reach.

110. We are of the view that advertisements should not be used as a means of financial support, especially in the context of the recommendation for setting up a Newspaper Development Commission which will help small and medium newspapers to improve their standards and to come up. Shri P.C. Verma, however, feels that genuine papers in the small and medium categories should be helped by giving them weightage in the release of Government advertisements.

111. Taking note of the misuse of Government advertisements that has occurred in the past, we recommend that both the Central and State Governments should announce their advertising policy each year and adhere to it. Copies of the advertising policy should be placed on the Table of Parliament and the State Legislatures.

### *Autonomous corporation for Government advertisements*

112. To avoid bias in the choice of newspapers for placing Government advertisements or in the determination of rates, we recommend that DAVP be split and its function of handling Government advertisements entrusted to an autonomous corporation in the public sector. The Directorate should retain its other functions relating to Government publicity.

113. While the Government should lay down the overall policy on the release of its advertisements, it should not interfere in the day-to-day affairs of the Corporation. Directions given by the Government to the Corporation should be specifically mentioned in the annual report of the Corporation to be placed before Parliament.

114. Public sector undertakings should not be compelled to release their advertisements through the Corporation. If they want to release their advertisements through the Corporation, they should be free to do so on a contract basis.

115. There should be similar autonomous bodies in the States.

116. We are strongly of the view that what is done with public money should be within public knowledge and accordingly that there should be no secrecy about the rates offered to different newspapers and the value of the advertisements placed with them. We recommend that the Central and the State Governments should lay on the Table of Parliament/State Legislatures each year a list of newspapers in which their advertisements, as well as those of public sector undertakings and other public bodies under them, were placed and the value of advertisements placed in each paper along with its circulation figure.

### *Government advertising rates*

117. As mentioned earlier, several witnesses represented that the rates of Government advertisements are much lower than their lowest commercial rates. A number of newspapers are not being used by DAVP as they have not accepted the advertisement rates offered by it. A list of 33 such publications is given in Appendix VIII.11.

118. According to DAVP, this criticism is misconceived since newspapers cannot be expected to be paid for Government advertisements, which are messages to the public, at the rates paid by, say, advertisers of cigarettes or hotel accommodation or entertainment. We recognise that Government advertisements stand on a different footing from commercial advertisements. But at the same time, rates for Government advertisements should be fixed on a realistic and fair basis. The autonomous corporation being recommended by us should keep this in mind.

119. During the interim period before the proposed autonomous corporation to handle Government advertisements comes into being, there should be an expert committee to advise DAVP on advertisement rates. This committee should include representatives of appropriate professional organisations.

120. Public sector undertakings, in many cases, compete with private firms for the same market. It is only fair that they should not be able to take advantage of the DAVP rates for Government advertisements which are lower than the commercial rates of newspapers in a number of cases. We were informed that, even at present, public sector undertakings make use of several newspapers/periodicals which DAVP is not able to utilise because it regards their advertisement tariff as high.

121. The Calcutta High Court observed in its recent judgment on the *Statesman's* petition against DAVP that the rates offered by DAVP are meant for Government advertisements only, excluding the Railways, and not for public sector undertakings. During the hearing of the case it was submitted on DAVP's behalf that after the withdrawal of the

Prasad Memorandum,\* the DAVP rates are not binding on any of the public sector undertakings and autonomous bodies and that such bodies are quite free to choose their own rates.

#### *Eligibility for Government advertisements*

122. We are of the view that only such daily newspapers which subscribe to a wire service or have some other properly organised news service should be entitled to receive Government advertisements and those of public sector undertakings. The papers should also have a regularity of at least 90 per cent.

#### *Withholding of advertisements*

123. We are in general agreement with the principles laid down by the Andhra Pradesh High Court in *Ushodaya Publications v. Government of Andhra Pradesh* (W.P. No. 7763 of 1979 decided on 10-10-1980) on the question of withholding Government advertisements to a newspaper. It is true that no newspaper has any right to get Government advertisements. Denial of advertisement by a Government to a newspaper does not entail violation of the right to freedom of the Press under Article 19(1)(a) of the Constitution. But the Government should not be as free as an individual in selecting recipients for its advertisements. A democratic Government cannot lay down arbitrary or capricious standards in the matter of selection of newspapers for issue of its advertisements. The funds set apart for advertisements have to be used in a reasonable manner. The object of a Government advertisement is generally to inform the people about its activities or to educate them or to promote its policies. The object sought to be achieved through the advertisement should be the main guiding principle in the matter of selection of the media. The guidelines issued should be rational, relevant and non-discriminatory. In the above case the Andhra Pradesh Government had laid down that advertisements should not be issued to newspapers adopting any of the following tones:

- (i) anti-national;
- (ii) communal;
- (iii) rabid, abusive;
- (iv) provoking tensions between different sections of the society;
- (v) distorting news for mischievous purpose;
- (vi) character assassination, blackmailing and attacks on individuals or mudslinging without proper and truthful evidence, and intimidation;
- (vii) fomenting group rivalries and quarrels and thereby indulging in mischievous gossip-mongering and sensationalism; and

- (viii) abusive and slanderous attacks on Government or its functionaries.

The High Court struck down the grounds mentioned in (iii), (v) and (vii) above as violative of Article 14 of the Constitution.

124. We are of the view that the grounds for denial of advertisements to newspapers should have a reasonable nexus with the interests sought to be protected under Article 19(2) or the provisions of any law, e.g., the Penal Code or violation of the unwritten code of journalistic ethics. The Central and State Governments should keep this principle in view while laying down guidelines for issue of Government advertisements to newspapers. It would be for the autonomous corporations for Government advertisements suggested to be set up to apply the guidelines in a fair and objective manner. We do not think it is necessary to provide for an appellate body to consider complaints regarding denial of Government advertisements by an autonomous corporation. An aggrieved newspaper can always approach the Press Council or a court. We are also of the view that municipalities and other elected local bodies should be left free to make their own arrangements for issue of advertisements.

125. Dr. Paranjape is, however, of the view that there is need for an appellate body to go into disputes between Government advertisers and newspapers as court proceedings can be time consuming and wasteful. Such a body, he thinks, can be set up either by the Press Council or the proposed Newspaper Development Commission.

#### *Wasteful advertising*

126. The First Press Commission noticed that "papers published outside the State can often claim a substantial share in the advertisement budgets of the smaller States. It is necessary for the States to examine the utility of advertising in such papers."

127. This was reiterated by the Enquiry Committee on Small Newspapers (1965) which said: "Some of the State Governments advertise extensively in papers published outside the State. We concede that there may be adequate justification for such releases at times. For example, the Rajasthan Government may like to advertise for nurses in newspapers published in Kerala, from which State a number of candidates of the required qualifications may be available. But we have come across cases where a State places a large volume of its advertising in the metropolitan papers published outside the State. The message contained in these advertisements is meant primarily for dissemination inside the State of origin. The number of copies of newspapers published from the metropolitan city circulating in the State concerned is comparatively small, whereas the advertising State has to pay for the advertisements at a high rate in relation to the total circulation figure of the newspaper".

\* The Prasad Memorandum issued during the Internal Emergency made it compulsory on the part of Public Sector Undertakings to channelise their advertising through DAVP. It was withdrawn after the 1977 General Elections.

128. In Chapter IX we discuss the undesirability of individuals and commercial organisations applying a large amount of advertising space to self-laudatory photographs and statements which serve little public purpose. In the context of the need to conserve imported newsprint, it is equally important that those who apply public funds to advertising should observe the greatest restraint and limit it to essential announcements.

129. We noticed that during 1981 a number of State Governments repeatedly issued full-page or half-page advertisements lauding their own achievements, and got these published not only within the State concerned but in other parts of India, particularly Delhi. While it is perfectly legitimate for a Government to publicise its achievements in such fields as agriculture or health or industries, it should be possible to do so through the news columns of newspapers. Paid advertisements tend to ascribe all the credit for such achievements to the political personalities for the time being in power. Such advertising is an exercise in narcissism rather than in the communication of information for public benefit.

#### *Importance of the rural market*

130. The findings of recent research highlight the importance of the rural audience and the growing rural market. This does not appear to have been sufficiently realised by advertisers and advertising agencies, whether in the public sector or the private. Facts and figures regarding the growth of the rural market in recent years are brought together in Appendix VIII.12. It will be seen therefrom that the growth rate of rural consumption of many consumer products, and not only farm inputs, is higher than the growth rate of urban consumption.

131. A realisation of the need to reach the rural audience more effectively will necessarily lead to greater utilisation of newspapers in the Indian languages, many of which will be local-interest newspapers of small and medium size reaching readers who are not likely to be covered by the bigger newspapers published from the metropolises, State capitals and other big publishing centres.

#### **(ix) News Services provided by Government**

132. The Press Information Bureau at the Centre and the Information Departments in the States issue Press releases covering policy pronouncements by Ministers and the implementation of programmes sponsored or assisted officially. There are, in addition, two methods by which the Central and State Governments attempt to provide news of a more comprehensive nature for the benefit of small newspapers. One is the slow-speed news bulletin of All India Radio, and the other the redistribution of news agency copy by certain State Governments.

#### *Slow-speed bulletins of AIR*

133. The Central Government has been providing a news service comprising selected news items through

the slow-speed news bulletins (broadcast from Delhi and relayed by several stations) in English (since December 1969) and Hindi (since May 1976), and in Urdu (since March 1971 but broadcast from Srinagar only).

134. The Diwakar Committee on Small Newspapers had recommended in 1965 that an Indian news agency should be entrusted by the Central Government with the task of preparing a 1,500-word news bulletin to be broadcast thrice during the course of a day by All India Radio. The Committee envisaged broadcast of the bulletin, after translation, in Hindi and the various regional languages, to be picked up by newspapers through shorthand writers or by the use of tape-recorders. "The aim of the scheme", the Diwakar Committee Report said, "is that the bulletins should be prepared objectively and that there should be no Government interference in their preparation. AIR should only give its free service for translation and announcements for the benefit of the small newspapers".

135. While improving on the suggestion by arranging for slow-speed delivery, eliminating the need for shorthand or tape-recorder, All India Radio chose to cast the news bulletin itself. Also, the bulletin is not broadcast in all regional languages from the various Radio Stations as envisaged by the Diwakar Committee.

136. It has been suggested to us that, with the availability of relatively inexpensive Indian-made cassette tape-recorders, the small newspapers can record the regular news bulletins of All India Radio for replay and transcription of items of interest to them, and that this would save the valuable broadcasting time now being applied to the slow-speed bulletins. However, we are not in favour of withdrawing a facility that is presently available to small newspapers and which many of them appear to find useful.

137. A study conducted by the Indian Institute of Mass Communication in 1977 found that 79 (or 46 per cent) of the 173 dailies which could be contacted, were utilising the slow-speed bulletin. Ninety-five per cent of the users also listened to one or more other news bulletins of AIR. During the course of discussions with the representatives of small newspapers, it was found that some of them use tape-recording devices to monitor other bulletins of AIR and make use of them.

138. Memoranda received from the All India Small and Medium Newspapers Association, Delhi and the All India Small and Medium Newspapers Federation, Kanpur have stated that the slow-speed bulletins are quite useful for small newspapers. A suggestion has been made that a better timing for the bulletins would be between five and seven in the evening.

139. We are of the view that, in order to improve the utilisation of the slow-speed bulletins, the languages in which the bulletins are broadcast and their



timing and frequency need to be examined, in respect of each region and in relation to the constraints on total broadcasting time. Moreover, it should be ensured that the bulletins do not sound merely like government news and publicity.

#### *Redistribution of agency copy*

140. The distribution of items received from news agencies, at a nominal charge or free of cost, to small newspapers stands on a footing altogether different from the slow-speed bulletins of AIR. In the case of the slow-speed bulletins, it is known that the newscasting has been done by All India Radio, which is run by the Central Government. In contrast, when a State Government arranges to redistribute news agency material, what is received by the small newspapers, even if it has been subjected to a process of selection and editing by an official of the State Government, is agency copy ostensibly. Selection and editing are done in some States.

141. In response to our query regarding redistribution of news agency copy to small newspapers, four State Governments—those of Andhra Pradesh, Karnataka, Kerala and Manipur—informed us that they have such a scheme in operation. Twenty-four other State Governments and Union Territory Administrations said that they do not have any such scheme. The Andhra Pradesh Government subscribes to the India News and Feature Alliance, which gives 30 copies of its despatches, in Telugu, to the State Government. These are distributed among small papers. In addition, the district publicity officers in the Kurnool and Vishakhapatnam districts subscribe to the UNI service for the benefit of small newspapers.

142. In Karnataka, the teleprinters of PTI, UNI, Hindustan Samachar and Samachar Bharati are placed in the district offices of the Department of Information and Publicity. Representatives of newspapers are allowed to make their own selection of the stories creeded on the teleprinters by these agencies. The service is provided free.

143. In Kerala, the State Government redistributes Samachar Bharati copy to eight Malayalam newspapers, mostly small evening dailies. They are charged Rs. 100 a month for the service.

144. In Manipur, the PTI service is redistributed among 24 local dailies after selection and editing by officials. No payment is realised from the beneficiary newspapers.

145. While the intention of helping small newspapers, underlying the above arrangements, is to be welcomed, we are of the view that it is better for a newspaper to receive all of a news agency's copy (free of cost if the Government is willing to pay for the service, or at a concessional rate subsidised by the Government) and make its own selection of news items, rather than for an official to make the selection on behalf of newspapers.

146. Since it will be difficult for Government to prepare duplicates of all the messages creeded by a news agency, representatives of newspapers may be allowed to see the agency copy and select whatever they are interested in.

#### **(x) Publications and Press Relations**

147. The various journals published by the Central and State Governments, and their agencies for dissemination of official news to the public through the Press, may be said to constitute the public sector of journalism in India.

### **PUBLICATIONS**

#### *Periodicals*

148. The First Press Commission took the view (para 477) that while the publication of specialised periodicals by technical departments of the Government would be legitimate, "the justification is not equally apparent in the case of the information magazines". However, it saw "no objection to their publication so long as they confined themselves to publicising the activities and achievements of Government and are not utilised for political propaganda. In their case too, as in the case of Press releases, we would repeat the advice that the aim should be to provide factual information regarding achievements and objectives and to eschew personal publicity for individuals".

149. The Government's role in initiating economic and social change has increased considerably over the quarter-century since the First Commission's Report. This is reflected in the increased number of periodicals published by the Government (Data on the number, subject matter and circulation of Government periodicals are given in Appendices VIII. 13 to VIII. 16). These periodicals include the fortnightly *Yojana*, devoted to planned development, which is brought out by the Publications Division of the Ministry of Information & Broadcasting in English, Hindi, Assamese, Bengali, Gujarati, Marathi, Malayalam, Telugu, Tamil and Urdu, and *Kurukshetra*, devoted to problems of rural development, which is brought out fortnightly in English and every month in Hindi. We have noted that these journals not only project achievements but also from time to time carry candid discussion of problems that remain to be overcome, specially in the implementation of schemes designed to benefit the weaker Sections.

150. In 1976 the Ministry of Information & Broadcasting undertook the publication of the weekly journals *Employment News* in English and *Rozgar Samachar* in Hindi and Urdu. They have proved useful and popular since they bring together information on career openings available in the Central and State Government departments and public undertakings under them. The paid circulation of *Employment News* at 1,75,668 in 1979 was the highest among all government publications. *Rozgar Samachar* in Hindi sold 47,350 copies and its Urdu counterpart 3,341. An anomaly in the definition of 'newspaper'



by the Press Registrar is that *Employment News*, though it gives news that is widely in demand, is not classified as a newspaper but as a non-news interest periodical in the 'Miscellaneous' category.

151. Besides *Employment News*, other publications of the Central Government which command a sizeable circulation are *Science Reporter* (English monthly) of the Council of Scientific and Industrial Research with a circulation of 56,369 and *Hamara Ghar* (Hindi monthly) of the Ministry of Health and Family Welfare with a circulation of 45,000.

152. Among State Government publications with a substantial circulation are *Uttar Pradesh* (Hindi fortnightly) of the U.P. Directorate of Information with a circulation of 95,000, *Tamil Arasu* (Tamil fortnightly) of the Tamil Nadu Directorate of Information with a circulation of 50,434, and *Andhra Pradesh* (Telugu monthly) of the Andhra Pradesh Directorate of Information with a circulation of 20,000.

153. Instances like the above are, however, exceptions to the rule. Many Government periodicals have very limited circulation, and incur losses. Even when the circulation is large, it is to some extent a captive audience since State Governments provide grants for the purchase of books and periodicals to educational institutions and Panchayats, and also draw up a list of approved periodicals for subscription.

154. We would urge all departments of the Central and State Governments which bring out periodicals to review the essentiality of the journals from time to time and to continue only those which are essential and preferably also command a reasonable sale among the general public. Non-specialist journals like *Bal Bharati* or *Aaj Kal*, brought out by the Ministry of Information & Broadcasting, ought to be able to compete on equal terms with similar periodicals run on commercial lines. Dr. Paranjape is, however, of the view that Government periodicals should be limited to specialised and scientific ones.

155. One reason for the limited impact of State Government periodicals is that, despite the observation of the First Press Commission quoted earlier, they tend to be little more than compendiums of the speeches and photographs of Chief Ministers and Ministers. Government periodicals are funded by public money, and they should avoid giving the impression of being mouth-pieces of the party and the persons who are in power for the time being; they should project the activities of the Government rather than of individual Ministers, and the progress and problems in the implementation of development programmes. Another reason for the limited reach of Government periodicals is the inadequate sales organisation for Government publications. This needs strengthening.

156. A non-priced periodical which has attempted to break new ground is the Wall Newspaper *Hamara Desh* which has been brought out by the Ministry of Information & Broadcasting since January 1970. Published initially in Hindi and English, the Wall

Newspaper is now brought out also in Bengali, Garo, Gorkhali, Khasi, Lushai, Malayalam, Marathi, Tamil and Urdu. The emphasis in the Wall Newspaper, which is put on display at places where the public gather, is on the country's development, and the language and presentation are intended to make it intelligible and interesting even to neo-literates.

#### Dailies

157. As against the large number of government periodicals that are brought out, the number of government-run dailies is small. One of them is *Daily Telegrams* (English), published by the Chief Commissioner of Andaman & Nicobar Islands in the absence of any daily newspaper worth the name in that Union Territory which consists of numerous far-flung islands. *Daily Telegrams* has a modest circulation of 1,208 and consists almost entirely of official news pertaining to the mainland and the Union Territory. It is not a daily newspaper in the ordinarily understood sense of the term.

158. In contrast, *Basumati* (Bengali) is a regular daily newspaper published by Basumati Corporation Limited, an undertaking of the West Bengal Government. It covers the same ground as, and competes with, other Bengali dailies. The newspaper was taken over in 1974, when it became financially sick owing to mismanagement, in terms of the Basumati Private Limited (Acquisition of Undertaking) Act passed by the Assembly in August of that year, and was placed under the State Government's Department of Sick Industries. It was the first instance of a regular daily newspaper being run by a State Government.

159. It is noteworthy that though *Basumati* is the oldest among the existing Bengali Newspapers it has not been able, after the take-over, to recover the peak circulation attained by it earlier.

160. The next instance of the take-over of existing newspapers occurred in Karnataka in 1981. The Governor of Karnataka issued on 31st August 1981 The Loka Shikshana Trust (Taking over of Management) Ordinance providing for the taking over of the Kannada daily newspaper *Samyukta Karnataka*, published from Hubli and Bangalore. The Commission sought information on the circumstances leading to the Ordinance, and the reply on behalf of the Government of Karnataka stated:

"The Loka Shikshana Trust (People's Education Trust) registered under the Bombay Public Trusts Act, 1950 was created for the purpose of educating the people by, *inter alia*, establishing or helping institutions calculated to educate the people and publishing among others the Kannada Daily Newspaper 'Samyukta Karnataka' from Hubli and Bangalore. Sri R.R. Diwakar was the sole trustee. On account of continuous loss, the sole trustee sold the newspaper publications of the Samyukta Karnataka both at Hubli and Bangalore in favour of the Karnataka Patrika Private Limited. In turn the Karnataka Patrika Private Limited

have again alienated the properties in favour of the Jayakarnataka News Printers Private Limited. Some persons interested in the Trust filed a suit before the District Judge Dharwar in O.S. No. 4 of 1977 questioning the alienation of the properties of the Trust and also requested for framing a scheme consisting of original objects of the Trust.

"Due to litigations and bad management the Bangalore edition of Samyukta Karnataka was closed. The Government was faced with the problem of retrenched employees. This necessitated the Government to take interest in this Public Trust. The Charity Commissioner was asked to see if he could set right the matter. Hence the taking over of the institution became imperative."

#### *Take-over of Newspapers*

161. Different views were expressed on the desirability of take-over of sick newspapers by the Government. One view was that a very large number of small newspapers are financially sick, and it would be impractical and undesirable for the Government to take-over the management of all of them. There was also a danger, according to this view, of a newspaper being deliberately made 'sick' as for example through denial of bank credit or by engineering strikes by employees—as preliminary to its take-over. The other view was that it is the Government's duty to safeguard the employment of journalists and other newspaper employees, specially when large numbers of them are involved.

162. We are of the view that the Government should not take-over newspapers even if they are faced with closure because of financial or other difficulties although there may be no constitutional bar to such take-over.

#### *Launching of New Dailies*

163. There were divergent views on the related question whether Governments may launch publication of new daily newspapers. Widespread public debate on this question was triggered by the announcement in March 1981 by the then Chief Minister of Maharashtra, that the State Government proposed to bring out a daily newspaper of its own. The Commission's office wrote to the Director-General of Information & Public Relations of the Maharashtra Government for details of the proposal and the progress of its implementation, but there has been no reply. However, according to information furnished to the Central Government, the State Government's reason for wanting to start a new daily is that "some of the newspapers, particularly those belonging to big groups, gave undue importance to criticism levelled by the Opposition and paid hardly any attention to constructive and developmental schemes of the Government" (Appendix VIII. 17).

164. A number of representatives of newspapers who appeared before the Commission referred to the proposed action of the Maharashtra Government. The Managing Director of a leading English newspaper

was of the opinion that while the Government has the right to bring out its own dailies, it should be ensured that they do not enjoy an unfair advantage *vis-a-vis* other newspapers. The subject came up when a former Foreign Secretary testified before the Commission. He recalled a discussion he once had with the late Jawaharlal Nehru regarding the Government starting its own newspaper. Pandit Nehru dismissed the idea as nonsense, pointing out the Government had the Radio. Pandit Nehru, we were told, was of the view that while Government publications like "Yojana" were desirable and necessary, Government should not embark on newspapers carrying daily news.

165. During our deliberations on this matter, one view was that freedom of expression is not only for the citizens but also for the Government. It should be open to a Government enjoying a popular mandate to put across news about its activities as well as its views on various matters in its own newspapers. On the other hand, the view was expressed that since the Government was already in control of Radio, Television and short films (documentaries and newsreels), its entry into daily newspaper publishing was undesirable as it would amount to a virtual monopoly of the news media. A Government daily may get undue advantage in increasing its circulation and securing advertisements.

166. A factor that is likely to come in the way of the success of a government daily is credibility. Even if an editorial charter is laid down for a government newspaper or it is stipulated that it will not offer any views on news, the selection and presentation of news carried in such a paper would be liable to be suspect.

167. After considering the pros and cons, we are in favour of daily newspapers being left in the private sector, with the proviso that they should be made socially accountable and not utilised for promoting sectional advantage. We have made recommendations for this purpose in the Chapter on the Press as a Public Utility.

168. However, in peculiar circumstances like those in the Andaman & Nicobar Islands, where there is no daily Press, we appreciate that there may be no alternative to the publication of a daily newspaper by the authorities. We are of the view that if Government finds it necessary to bring out a daily newspaper in such areas, the proposed Newspaper Development Commission should be consulted and its approval obtained for the proposed newspaper as well as the pattern of its contents. If the circulation of a Government daily crosses the limit prescribed for the purpose, it should be brought within the purview of the Trust formula we are proposing in the Chapter on the Press as a Public Utility.

169. Shri K.R. Ganesh, however, does not share the view that the publication of daily newspapers by Government should be limited to exceptional places and circumstances. In his view, the totality of the

needs of communication in a country where the masses of the people to be informed, educated and mobilised for participation in the process of development, is so large that the medium of the daily Press cannot be left entirely to the private sector. The Government should be free to start daily newspapers in such languages and at such centres as may be found necessary to provide a supplement and/or corrective to the daily newspapers brought out by private publishers.

## PRESS RELATIONS

170. The Press Information Bureau at the Centre and the Information Departments in the States, liaise between the Government and the Press by issuing Press releases, arranging Press Conferences and briefings, and occasionally organising conducted tours for the coverage of development projects.

### *Press Information Bureau/State Information Departments*

171. The Press Information Bureau issues news releases, background material and photographs to nearly 6,000 newspapers directly from its headquarters in New Delhi as well as through its branch offices in all the States and most of the Union Territories. This is much larger than the number of news papers served by the news agencies. PIB material is supplied in English, Hindi and other major Indian languages.

172. Discussion within the Commission as well as the evidence of representatives of various categories of newspapers and memoranda received from newspaper organisations, reflected dissatisfaction with the performance of the Press Information Bureau. Memoranda received from the All India Small and Medium Newspapers Association, Delhi, the All India Small and Medium Newspapers Federation, Kanpur and the Indian Rural Press Association, Delhi said that the material sent by PIB is of indifferent quality and its utility is further reduced as it is received very late. A Press release in English takes three to five days to be translated and issued in Indian languages. This is despite the fact that Indian language and small newspapers need the services of PIB more than big English newspapers which have a number of correspondents of their own. Also, PIB offices function only during office hours, which is unsuitable for a news organisation.

173. The memoranda also say that the utility of the PIB is considerably circumscribed by the narrow view taken by it of its role, mainly as spokesman of the Ministries of the Central Government only rather than as an efficient and reliable source of information which it should be, concerning the country as a whole. For example, the PIB is not able to furnish information on the composition of State Governments, their development programmes and policies, etc., or to supply copies of papers laid on the Table of State Legislatures.

174. Another criticism was that the PIB and the State Information Departments tend to function as

trumpeters and drum beaters of the Government, and even of individual Ministers, whereas the objective of official information agencies should be to provide full and rounded information to the public through the Press. Correspondents posted at district headquarters have complained that in many cases District Public Relations Officers come to life only during the visits of Ministers from the State Headquarters, and that they are of little help in the day-to-day collection and dissemination of development news.

175. We would like to stress that one-sided presentation of achievements alone, ignoring the problems and failures that the Press and the public are aware of, does not make for credibility. Some recent examples of publicity based on less than the full truth may be cited. A PIB release of 2nd August 1981 stated that the power-producing industry had during April-July recorded an increase of 17 per cent over the power generation in the corresponding months of 1980, and that this marked an over-fulfilment of the generation target fixed for April-July 1981. The release did not say what the power generation was in relation to installed capacity in the power-producing industry. Similarly, a Press release of 28th September 1981 said that public sector undertakings under the Department of Heavy Industry had during August achieved a production of Rs. 121.89 crores, or 98 per cent of the target. Again, there was no reference to performance in terms of the utilisation of installed capacity. Of interest in this connection is the caution scurded by the then Director, Indian Institute of Mass Communication, in an Extension Lecture at Bangalore University on 10th April 1979, against "cross fertilisation between bureaucratic bumptiousness and the effrontery of commercial advertising". He suggested instead that, "The way to win trust is to take note of the realities of people's experiences and make them recognise the changes that are occurring. If you confess they are not occurring fast enough, they will concede that they are occurring".

176. We are of the view that there should be a thorough reorganisation of the Press Information Bureau. It should be a news service functioning day and night, with its activities streamlined in such a way that district newspapers and the Indian language Press get its news releases promptly. PIB should, in co-ordination with the Research & Reference Division, equip itself to meet the demands of newspapers for information about every part of the country. To ensure that PIB is responsive to the needs of those sections of the Press which need its services most, we recommend the formation of an Advisory Committee comprising the users of PIB services. PIB can also perform a useful role in the exchange of information among the States regarding the policies and programmes in each State, by circulating selected items of significance and general interest.

177. Regional and Branch offices of PIB should be in a position to supply newspaper correspondents with information on developments in other States.

178. One of the reasons for the PIB remaining only as a purveyor of handouts and Press releases pointed out to us was that it had not graduated from being a casual to a full and welcome participant in the decision-making discussions in various ministries. This is despite the recommendation made by the Chanda Committee in 1967 and a Study Team of the Administrative Reforms Commission in May 1967 that PIO should be fully involved in vital decisions affecting the country. The study team headed by Shri K. Santhanam had observed that PIO should be treated as a spokesman of the Government as a whole and should be responsible for releasing Cabinet decisions and other matters dealing with the Government to the Press. We are of the view that PIO and other functionaries in the Press Information Bureau should be fully involved in the decision-making discussions in various ministries so that they can explain the decisions to the Press and public in an effective manner. We are recommending in the next section that only a person who enjoys confidence of the Government should be appointed as PIO so that he can explain the Government's policies and strategies to the Press with authority.

#### *Guidelines to Official Media*

179. We have taken note of and welcome the letter dated 22nd July 1980 sent by the Ministry of Information & Broadcasting to Media Units stressing the importance of the official media remaining "credible as well as interesting to all sections of the society" and on news and views being disseminated "in a fair, objective and balanced manner giving contrasting points of view" and problems and issues being "covered from the public point of view without any hesitation in bringing out healthy criticism". We endorse these guidelines.

### (IX) INFORMATION ADMINISTRATION

180. The Commission has taken the view that journalism requires certain aptitudes and skills, and that it approximates to the status of a profession. Also, the Commission considers it desirable that the editorial staff of a newspaper should be insulated from undue or improper interference by the proprietors in their day-to-day work so long as they function within the parameters of the newspaper's policy. We are of the view that the same criteria should apply to journalism in the public sector.

#### *Recruitment Policy at the Centre*

181. Until 1960 various journalistic posts in the Press Information Bureau, Publications Division and other organisations under the control of the Ministry of Information & Broadcasting were filled by direct recruitment through the Union Public Service Commission on the basis of qualifications which included a specified number of years of journalistic experience in a newspaper or news agency of repute.

182. In 1960 a Central Information Service was constituted. It comprehended all posts of a journalistic nature in the various media units of the

Information & Broadcasting Ministry. Direct recruitment was confined to Grade IV which is the bottom rung of the Service and to Grade II (Junior Class I). Twelve and a half per cent of vacancies in the Junior Administrative Grade (corresponding to Deputy Director in the different media units) were also to be filled by direct recruitment. This provision for direct recruitment at senior level has been done away with, in response to persistent demands from the C.I.S. Officers' Association. This does not appear to be a healthy development, since the induction of fresh blood at senior levels is desirable in a professional service.

183. For nearly ten years, during which time a re-structuring of the Service was under consideration but did not take place, the Ministry of Information & Broadcasting undertook no recruitment to Grade IV or Grade II of the Service. This resulted in serious imbalances in staff strength and extensive resort to *ad hoc* promotions.

184. After an interval of ten years, the Ministry initiated recruitment during 1981 to Grades IV, III and II. We have noticed some anomalies in the qualifications prescribed. In the case of Grades IV and III, proficiency in an Indian language has been laid down as a requirement, posts being allocated specifically for different languages. In the case of Grade II, however, no requirement of proficiency in an Indian language has been laid down. Equally important is the divergence in respect of the requirement of journalistic experience. At least three years of journalistic experience is required for Grades IV and III, but none for Grade II.

185. Recruitment to Grade II has over the years been undertaken as part of the Combined Competitive Examination for entry to IAS/IFS and Central Civil Services. Thus, it was a matter of chance whether a person who qualified in the examination and interview was allotted to the Police Service, the Revenue Service or to the Information Service. It is these Grade II officers who rise quickly (as compared to those who enter in Grade IV) to senior posts as Information Officers, Deputy Principal Information Officers and equivalent posts.

186. The approach of recruiting 'bright' young people and training them later for any one of a dozen varied tasks was apparently inspired by the advice tendered by the Federal Public Service Commission, as it then was, to the Ministry of Information and Broadcasting in 1950 (Appendix VIII.18).

187. The pattern of recent recruitment shows that the Ministry of Information and Broadcasting is adhering to the course suggested to it more than three decades ago by the Federal Public Service Commission. We do not think that this is a sound approach. In our view, journalistic aptitude and experience should be required or tested for direct recruitment at every level of the Central Information Service. Proficiency in Indian languages should also be ascertained before recruitment.

### *Recruitment in the States*

188. Whereas media units of the Information and Broadcasting Ministry, including the Press Information Bureau (except during and for a while after the internal emergency) are headed by professionals, in the States the Information Departments are usually headed, as Directors, by officers drawn from the administrative services. It is at the level of Deputy Director and below that persons with journalistic background are recruited.

189. We recommend that the Information set-up in the States should be headed by professionals, and regular cadres should be constituted where this has not already been done, so that the scope for appointments based on political rather than professional considerations is minimised.

### *Need for Professional Autonomy*

190. Professional autonomy, as we have stated earlier, is essential in the public sector of journalism as in the private. To permit this, it is essential that Ministers and senior civil servants should exercise self-restraint, intervening only to give policy guidelines and to correct any deviations therefrom.

191. On the other hand, information officials should realise that professional autonomy is something to be exercised by them rather than granted by others. As remarked by the then Secretary of the Ministry of Information and Broadcasting, in an address to a conference of news correspondents of All India Radio in February 1981, some of the information officials in the Government are "only too eager to edit their format to what they feel might please the political masters. Now, this is a phenomenon which is cutting at the roots of any kind of professional integrity".

### *Policy Advice to Minister*

192. We considered the question whether senior secretarial posts in the Information and Broadcasting Ministry and in the State Information Departments, whose incumbents are expected to tender policy advice to the Minister, should continue to be manned by officers drawn from the administrative services who come and go, or should be thrown open to professionals.

193. Between 1970 and 1981, there have been seven Ministers in charge of Information and Broadcasting. It is understandable that there can be a high turnover of Ministers, because of the vicissitudes of elections and politics. What is remarkable is that the Information and Broadcasting Ministry has had an equally high turnover of seven secretaries during this period. At the level of Joint Secretary, too, the posts in the Information and Broadcasting Ministry have always been manned by officers drawn on tenures of a few years from the ICS/IAS. The highest secretariat post ever manned by a professional has been that of Director, which is below the level of Joint Secretary.

194. We are of the view that, on the pattern of the Railway Ministry, there should be an Information Board comprising senior professional heads of the media units to tender policy advice to the Minister, with the secretariat of the Ministry attending only to financial and administrative matters, not policy planning.

### *Induction of Professionals*

195. We are further of the view that the Press Information Bureau, Publications Division and other units in the Information Wing of the Ministry should be headed by persons of acknowledged professional status drawn from newspapers and news agencies or the fields of advertising and public relations.

196. Particularly in the case of the Principal Information Officer, the incumbent should enjoy the confidence of the Government and have access to the policy formulating levels, so that he can explain the Government's policies and strategies to the Press with authority. The appointment should be on a contract basis, terminable when there is a change of Government. We realise that this might appear to politicise the office of the Principal Information Officer and render the appointment an exercise in patronage. But we are of the view that it is a risk that must be taken in order to secure professional direction for this important agency which mediates between the Government and the Press.

197. There should be induction of fresh blood at other levels too in the Information agencies of the Government. Otherwise, the results from a Railway Board type of structure may not be markedly better than they have been so far under the conventional secretariat pattern. The Information officials in the Press Information Bureau or editors and business managers in the Publications Division can retain and improve their professional skills only if there is opportunity for movement in and out of the private and public sectors of newspapers and book publishing. We therefore recommend that newspapers should let the Press Information Bureau have the services of their Assistant Editors/Special Correspondents on loan for a period of three to four years, and take suitable persons from the Central Information Service to work in the newspapers for similar periods, in the field as correspondents or at the desk as chief sub-editors/news editors. This will require that a percentage of posts at different levels in the Central Information Service should be earmarked for filling by persons to be engaged on short-term contracts.

198. It will also require that the scales of remuneration in the Central Information Service should be improved and brought to a level comparable to those which now obtain in newspapers of repute. The Central Information Service should not be run on the same pattern as secretarial services if it is to attract the requisite talent.

## IX. THE PRESS AS AN INDUSTRY

In this Chapter we analyse the main sources of revenue and expenditure of newspaper units of different sizes and their requirements of capital and physical inputs.

### *Inadequacy of Data*

2. The First Press Commission gave expression to its difficulty in securing data on newspaper economics in the following words: "In our examination of the finances of the daily Press, we have been handicapped by the lack of any authentic source of statistics..... We would like, if it were possible, that every paper should be constituted as a separate unit so that its profits and losses are definitely ascertainable and both the proprietor and the employees know where they stand. In the case of multiple editions, each unit should be separated from the others in the matter of accounts. Where a chain consists of a number of groups, each group should be separated from the others. Inside the group itself, it may be difficult to make a division of capital investment and of certain categories of expenditure. The revenue accounts should be maintained separately and cost accounts should be kept in respect of production of each of the papers. This system of book-keeping should invariably be adopted wherever the management find it inconvenient to divide the group into its component units." In a reply to a Parliament Question (Lok Sabha Starred Question No. 1737 dated 15th February, 1969) on the follow-up action taken on these recommendations, it was stated on behalf of the Government: "The recommendations were addressed to the managements of newspapers. Government appreciates the need for maintaining separate accounts for each unit of a chain".

3. The Fact Finding Committee on Newspaper Economics (FFCNE), which submitted its Report in 1975, experienced the same difficulty. It recommended amendment of the Registration of Newspapers (Central) Rules and of the P.R.B. Act, if necessary, to provide for collection of items of information such as revenue and expenditure under different heads, capital structure and working capital. The Committee further recommended that every newspaper should be constituted as a separate unit so that its profit or loss could be ascertained and that newspapers should keep their accounts according to a uniform pattern and in a form which would be useful for analysis. Although the Government accepted in principle the recommendations with regard to the amendments in the PRB Act and the Registration of Newspapers (Central) Rules (*vide* reply to the Rajya Sabha Unstarred Question No. 1212 dated 3rd August, 1978), no concrete action was taken.

4. By a letter sent in December 1978, 85 common ownership units\* (accounting for 72.5 per cent of the total circulation of all dailies) were requested to furnish balance sheets and accounts for the years 1973-74 to 1977-78. Only 17 of them responded. The names of the 17 newspaper undertakings which supplied the information and the 68 which did not are given in Appendix IX.1. In July 1979, a registered letter was sent to 10 important newspaper undertakings (*Statesman*, *Ananda Bazar Patrika*, *Jugantar*, *Eenadu*, *Hindu*, *Sandesh*, *Hind Samachar*, *Tribune*, *Samaj* and *Thanthi*) requesting them to furnish the data. The response was again very poor. Only the *Statesman* furnished some information. The Commission issued sommons calling for the data on 12th September, 1979 to 153 dailies published by 98 undertakings selected on the basis of the following sampling method:

Circulation	Sampling percentage	Number of dailies
Above 50,000 . . . . .	100	51
30,001—50,000 . . . . .	50	22
15,001—30,000 . . . . .	33½	25
5,001—15,000 . . . . .	20	39
upto 5,000 . . . . .	5	16
		153

The 153 dailies selected had a total circulation of 75.10 lakhs during 1977, accounting for 70.37 per cent of the combined circulation of all dailies in the country. Two reminders were sent to the defaulting newspapers in October and November 1979. Only 50 undertakings publishing 90 dailies responded within the stipulated time-limit. Thirty-eight newspapers belonging to 26 undertakings sent information later. No data were received in respect of 25 dailies published by 22 undertakings. While the data called for was in respect of individual papers, the data received related generally to combined operations of the establishment publishing one or more daily newspapers as well as periodicals. In many cases, the information was incomplete. Lists of the daily newspapers which supplied the information and those which did not are given in Appendix IX.2.

5. After the reconstitution of the Commission, we made another effort to secure revenue and expenditure data in respect of individual newspapers. Editors/managers/proprietors of 35 newspapers/newspaper

\* 'Common ownership unit' as defined by the Press Registrar is a newspaper establishment owning two or more news-interest publications, at least one of which is a daily.



companies, who appeared before the Commission, were requested to furnish centre-wise and publication-wise data on revenue and expenditure for the years 1970, 1975 and 1980. In response to this request, 20 newspapers/newspaper companies, furnished the information but in most cases, centre-wise and publication-wise data were not given. The form in which information was called for and the names of the newspaper companies which supplied the information and those which did not are given in Appendix IX.3.

6. We have already recommended in Chapter IV that, if necessary, the Companies Act and other laws should be amended to make it obligatory for newspaper undertakings to maintain publication-wise and edition-wise financial data and to furnish it regularly to the Press Registrar. This will facilitate better appreciation of the economics of newspaper chains and groups in the future.

### MAIN SOURCES OF REVENUE AND EXPENDITURE

#### *Findings of the First Press Commission*

7. The First Press Commission which examined the break-down of costs in respect of 30 dailies for the year 1951 found that the cost of materials was the largest single component accounting for 32 per cent of the total costs in the case of English language papers and 45 per cent in the case of Indian language papers. The break-down of the cost of production ascertained by the Commission is given below :

*Break-down of cost of production in 1951*

	English papers (9 papers, total circulation 4,02,000)		Indian language papers (21 papers, total circulation 4,22,000)	
	Rs. (thousands)	Per cent of total	Rs. (thousands)	Per cent of total
Services . . .	32,39	10	11,47	6
Editorial . . .	33,21	10	13,77	7
Materials . . .	1,05,43	32	90,68	45
Composing, printing . . .	57,55	18	30,96	15
Distribution . . .	29,02	9	18,50	9
Management . . .	28,49	9	10,59	5
Overheads . . .	25,83	8	16,44	8
Depreciation . . .	12,37	4	9,78	5
Total . . .	3,24,29	100	2,02,19	100

8. Noting that the main sources of revenue were the sale of newspaper copies and of advertisement space the Commission said : "Taking daily papers as a whole, the total circulation revenue is estimated at Rs. 6 crores and advertisement revenue at Rs. 5 crores and this gives a ratio of 6 to 5 or 55 per cent to 45 per cent between the circulation and advertisement revenue. The actual ratio for individual papers varies within a very wide range".

#### *Findings of the Fact Finding Committee on Newspaper Economics*

9. The FFCNE studied the data of 63 newspaper undertakings for the years 1967 to 1973 and found that on an average the revenue from advertisements and sale of newspaper copies was in the proportion of 53.3 and 46.7 per cent respectively. The revenue from other items taken together ranged from 5.3 per cent to 6.5 per cent of the revenue from sales and advertisement, the figure for 1973 in this behalf being 6.4 per cent.

10. On the costs side, the FFCNE found that material costs (newsprint and paper, stores and spare parts, less the credit for sales of waste materials) ranged between 41.6 per cent and 46.3 per cent, the lowest percentage being in 1973. Employees' cost ranged from 26.5 per cent to 28.9 per cent. In 1973, it worked out to 27.9 per cent. Depreciation, managerial remuneration and outside printing charges remained more or less constant over the years and accounted for only 3.5 per cent. All other expenses ranged between 20.8 per cent and 23.4 per cent. In 1973, they accounted for 21.6 per cent.

11. The profit earned in 1973 worked out to 8.9 per cent of the net sales and net advertisement ranged between 20.8 per cent and 23.4 per cent. In seven years from 1967 to 1973.

12. For the daily newspapers for which FFCNE was able to secure data, the break-up of the total cost was as follows :

Elements of cost	Per cent of total cost
(a) Newsprint/paper . . . . .	37.0
(b) Ink and indirect material . . . . .	7.0
(c) Employees . . . . .	29.5
(d) Depreciation . . . . .	2.5
(e) All other expenses . . . . .	24.0

13. The average net realisation in 1973 for the dailies covered in the FFCNE study amounted to 36.3 paise per copy of which advertisements brought in 19.6 paise or 54 per cent and sales 16.7 paise or 46 per cent. Income from job work and other items amounted to about six per cent of the total net sales and advertisement revenue in 1973.

#### *Expenditure and Revenue Pattern in 1977-78*

14. Of the 76 newspaper undertakings publishing 128 dailies responding to the summons issued by the Commission, the data received from only 50 newspaper undertakings—31 big, 10 medium and nine small—was reasonably complete for the purpose of analysis. The 90 dailies published by them—43 big, 33 medium and 14 small—accounted for 57.67 per cent of the total circulation of dailies in the country.



15. The category-wise consolidated expenditure and revenue data of the 50 newspaper undertakings for

1977-78 is given below. The data in respect of individual undertakings are given in Appendix IX.4

#### EXPENDITURE AND REVENUE DATA OF 50 NEWSPAPER UNDERTAKINGS 1977-78

(Rs. in lakhs)				
Item	Big	Medium	Small	Total
1. Expenditure				
(a) Material . . . . .	6,279.10 (56.20)	268.37 (55.45)	30.69 (41.24)	6,578.16 (56.08)
(b) Salaries & Wages . . . . .	2,041.96 (18.28)	72.68 (15.02)	17.50 (23.52)	2,132.14 (18.18)
(c) Newsgathering . . . . .	543.28 (4.86)	21.00 (4.34)	3.92 (5.27)	568.20 (4.84)
(d) Others . . . . .	2,307.99 (20.66)	121.92 (25.19)	22.30 (29.97)	2,452.21 (20.90)
(e) Total . . . . .	11,172.33 (100.00)	483.97 (100.00)	74.41 (100.00)	11,730.71 (100.00)
2. Revenue				
(a) Circulation . . . . .	6,154.03 (46.80)	275.41 (59.32)	31.36 (42.15)	6,460.80 (47.20)
(b) Advertisement . . . . .	6,195.50 (47.11)	179.84 (38.74)	33.67 (45.26)	6,409.01 (46.82)
(c) Others . . . . .	800.30 (6.09)	9.02 (1.94)	9.37 (12.59)	818.69 (5.98)
(e) Total . . . . .	13,149.83 (100.00)	464.27 (100.00)	74.40 (100.00)	13,688.50 (100.00)
3. (+) Surplus . . . . .	(+)1,977.50	(-)19.70	(-)0.01	(+)1,957.79
(-) Deficit				
4. (+) Surplus . . . . .	(+)15.04	(-)4.24	—	(+)14.30
(-) Deficit as a percentage of total revenue				

Note :—The Expenditure figures exclude depreciation.  
Figures in brackets indicate percentage.

#### Increase in Material Cost

16. A comparison of the above data with the information compiled by the First Press Commission and FFCNE shows that on the expenditure side, there has been a substantial increase in the share of material costs. In 1951, material costs accounted for 32 per cent of the cost of production in the case of English language papers and 45 per cent in the case of Indian language papers. In 1973, they accounted for 41.6 per cent of the total costs. In the undertakings studied by us, their share had gone up to 56.08 per cent in 1977-78. A fact worth noting is that the increase in the share of material costs in the total expenditure has been more in the case of big newspaper establishments than in the case of small and medium undertakings. While the material costs accounted for 41.24 per cent in the case of small newspaper establishments, it was 56.20 per cent in the case of big undertakings.

#### Expenditure on Salaries and Wages

17. The share of salaries and wages of employees which was 27.9 per cent of the costs in 1973 came down to 18.18 per cent of the expenditure in 1977-78. Small undertakings spent more on this item (23.52 per cent) than big undertakings (18.28 per cent) and medium undertakings (15.02 per cent).

#### Expenditure on News Gathering

18. News gathering accounted for 4.84 per cent of the expenditure for the 50 companies taken as a whole during 1977-78. In the case of big under-

takings, the share of news gathering was 4.86 per cent; in the case of medium undertakings 4.34 per cent; and in the case of small undertakings 5.27 per cent.

#### Circulation and Advertisement Revenue

19. On the revenue side, circulation and advertisement revenue were found to account for almost the same percentage of the total. For the 50 undertakings taken as a whole, revenue from circulation, advertisements and other items accounted for 47.20, 46.82 and 5.98 per cent respectively of the total revenue. Revenue from circulation was 46.80 per cent and from advertisements 47.11 per cent in the case of big newspaper undertakings. In the case of medium undertakings, circulation revenue accounted for 59.32 per cent while advertisement revenue accounted for only 38.74 per cent of the total revenue. In the case of small undertakings, the revenue from other items at 12.59 per cent was more than double the average.

#### Increase in Profitability

20. There has been a striking increase in profitability of newspaper undertakings since the First Press Commission and FFCNE reported their findings. The First Press Commission had observed that in 1951 the industry as a whole made "an estimated profit of about six lakhs of rupees on a capital investment of about Rs. 7 crores or less than one per cent per annum. This does not mean that the profit-earning capacity of the industry is uniformly poor; among the concerns returning profits a good proportion earned profits of over 10 per cent on the capital invested.

But the picture as a whole does not reveal tempting prospects for the future investor looking only for safe and regular returns on his capital."

21. The FFCNE found that the profit earned by the newspaper undertakings studied by it in 1973 worked out to 8.9 per cent of the net sales and net advertisement revenue taken together.

22. The 50 newspaper undertakings studied by us had a surplus of 14.30 per cent of the turnover. But only the big units made profits. While they had a surplus of 15.04 per cent, medium undertakings incurred a loss of 4.24 per cent and small undertakings just broke even.

23. Of the 50 newspaper undertakings which supplied information to the Commission, 19 published only a daily newspaper. Later, the Commission was able to secure data in respect of 16 other daily newspapers. Of this total of 35 dailies, 15 belonged to the big and 10 each to the small and medium categories. Analysis of the data in respect of them shows that the trend towards increase in material costs is more marked in the case of big dailies (61.33 per cent) than in the case of small (38.17 per cent) and medium dailies (48.89 per cent). The salaries and

wages cost is more in the case of medium (20.92 per cent) and small dailies (26.08 per cent) than in the case of big dailies (15.78 per cent). The share of news gathering cost (news agencies and other items) is more in the case of small and medium newspapers than in the case of big dailies. 'Other costs' also tend to rise as the circulation goes down.

24. While the circulation revenue in the case of big dailies was 42.08 per cent of the total revenue, in the case of small and medium dailies it was as much as 49.27 per cent. Advertisement revenue in the case of big dailies accounted for 53.92 per cent of the total revenue whereas it was 48 per cent in the case of medium and 49.18 per cent in the case of small dailies.

25. The overall surplus of the 35 daily newspapers was 7.36 per cent of the turnover. While the big dailies had a surplus of 8.19 per cent and medium ones of 6.18 per cent, small dailies suffered a huge loss of 36.25 per cent. The following table gives the category-wise consolidated revenue and expenditure data of the 35 dailies for 1977-78 while the data in respect of individual newspapers is given in Appendix IX.5.

#### REVENUE AND EXPENDITURE DATA OF 35 DAILIES FOR 1977-78

(Figures within brackets indicate percentage)

(Rs. in lakhs)

		Category of Paper			Total	
		Big	Medium	Small		
Total Revenue		4262.24 (100.00)	471.74 (100.00)	69.25 (100.00)	4803.23 (100.00)	
Share of revenue under Major Heads	Circulation	1793.36 (42.08)	232.43 (49.27)	34.12 (49.27)	2059.91 (42.89)	
	Advertisement	2298.28 (53.92)	226.42 (48.00)	34.06 (49.18)	2558.76 (53.27)	
	Rent	4.98 (0.12)	—	—	4.98 (0.10)	
	Others	165.62 (3.88)	12.89 (2.73)	1.07 (1.55)	179.58 (3.74)	
	Total	3912.97 (100.00)	442.60 (100.00)	94.35 (100.00)	4449.92 (100.00)	
Share of cost under major heads	Material	2399.90 (61.33)	216.40 (48.89)	36.01 (38.17)	2652.31 (59.60)	
	Salaries & Wages	617.26 (15.78)	92.60 (20.92)	24.61 (26.08)	734.47 (16.51)	
	Newsgathering cost	News Agencies	24.29 (0.62)	7.37 (1.67)	1.55 (1.64)	33.21 (0.75)
		Others	95.18 (2.43)	34.12 (7.71)	4.19 (4.44)	133.49 (3.00)
		Total	119.47 (3.05)	41.49 (9.38)	5.74 (6.08)	166.70 (3.75)
	Other Costs	776.34 (19.84)	92.11 (20.81)	27.99 (29.67)	896.44 (20.14)	
	Surplus/Deficit (—)	349.27	29.14(—)	25.10	353.31	
Surplus/Deficit (—) as per cent of revenue		8.19	6.18(—)	36.25	7.36	

*Analysis of Data Relating to 18 Daily Newspapers/  
Newspaper Companies*

26. On the basis of information supplied by some newspaper companies, the revenue and expenditure data of 18 dailies/Newspaper companies for the years 1970, 1975 and 1980 were analysed. The analysis revealed that on the expenditure side, the share of newsprint in the total costs increased progressively from 40.85 per cent in 1970 to 49.91 and 56.42 per cent in the years 1975 and 1980 respectively. On the other hand, the share of expenditure on salaries and wages, news collection and distribution came down. The expenses on account of salaries and wages came down from 20.75 per cent in 1970 to 14.24 and 12.74 per cent in 1975 and 1980 respectively. The expenditure on news collection came down from 5.57 per cent in 1970 to 4.24 and 3.28 per cent in 1975 and 1980 respectively. The expenditure on distribution came down from 8.83 per cent in 1970

to 6.18 and 5.61 per cent in 1975 and 1980 respectively.

27. On the revenue side, the share of circulation increased from 36.22 per cent in 1970 to 43.39 per cent in 1975 but declined slightly to 42.82 per cent in 1980. The share of advertisements in the total revenue came down from 60.39 per cent in 1970 to 51.26 per cent in 1975 but increased slightly to 51.99 per cent in 1980. The share of waste paper sales in the total revenue increased from 2.75 per cent in 1970 to 3.46 per cent in 1980. The share of other items on the revenue side was negligible.

28. The following table gives the consolidated revenue and expenditure data of 18 dailies/newspaper companies for the years 1970, 1975 and 1980 while the data in respect of individual dailies/newspaper companies are given in Appendix IX.6.

**CONSOLIDATED REVENUE AND EXPENDITURE OF SELECTED 18 DAILIES/NEWSPAPER COMPANIES**

(Rs. in lakhs)

Year	Revenue						
	Circulation net	Advertisement net	Job work	Rent of owned buildings	Sale of waste paper	Miscellaneous	Total
1	2	3	4	5	6	7	8
1970 . . . . .	614.20	1024.12	1.29	6.35	46.59	3.32	1695.87
%age distribution . . . . .	36.22	60.39	0.08	0.37	2.75	0.19	100.00
1975 . . . . .	1706.74	2016.19	6.87	78.76	111.49	13.55	3933.60
%age distribution . . . . .	43.39	51.26	0.17	2.00	2.83	0.35	100.00
1980 . . . . .	2926.75	3553.98	4.08	88.66	236.67	25.50	6835.64
%age distribution . . . . .	42.82	51.99	0.06	1.30	3.46	0.37	100.00

(Rs. in lakhs)

Expenditure								
News-print and other papers	Other material	News Collection		Salaries and wages	Rent for Buildings leased	Distribution expenses	Miscellaneous	Total
		News agencies	Staff S & W and other expenses					
9	10	11	12	13	14	15	16	17
631.97	41.51	23.60	62.45	321.08	11.02	136.50	318.93	1547.12
40.85	2.68	1.53	4.04	20.75	0.71	8.83	20.61	100.00
1814.13	109.14	30.06	124.07	517.64	21.04	224.76	794.05	3634.91
49.91	3.00	0.83	3.41	14.24	0.58	6.18	21.85	100.00
3627.57	239.20	48.76	161.96	774.03	28.87	360.53	1142.99	6428.89
56.42	3.72	0.76	2.52	12.74	0.45	5.61	17.78	100.00

### Combines and Chains

29. A comparative analysis of the expenditure and revenue data of Combines/Chains/Groups/Newspapers with Multiple Editions\*/Individual Newspapers does not throw up any significant pattern. Consolidated data for different categories is given in the following table while the data in respect of individual combines, chains, etc. is given in Appendix IX.7.

\* These were defined by the First Press Commission as under :

**Multiple Unit** i.e. publication of more than one daily of the same title and language at different centres under one ownership;

**Groups** i.e. publication of more than one daily from the same centre under one ownership, in the same language (e.g. morning and evening papers under different names) or in more than one language;

**Chains** i.e. publication of more than one daily under one ownership from more than one centre. These are only combinations of the types mentioned earlier;

**Combines** These are in essence Chains, Groups or Multiple Units but the units appear outwardly as different concerns.

However these expressions are not used in the reports of the Press Registrar. All these are lumped together in one category viz. Common Ownership Unit, which has been defined as a newspaper establishment owning two or more news-interest newspapers at least one of which is a daily.

### EXPENDITURE AND REVENUE DATA OF COMBINES/CHAINS/GROUPS/MULTIPLES/INDIVIDUAL NEWSPAPERS—1977-78 (CONSOLIDATED)

(Figures within brackets indicate percentage of expenditure/revenue)

(Rs. in lakhs)						
S.No.	Item	Combines	Chains	Groups	Multiple	Individual
1	2	3	4	5	6	7
1.	Circulation of dailies 1978 . . . . .	1878710	1351023	876448	1767405	787893
2.	Expenditure					
	(a) Material . . . . .	2012.96 (59.67)	1386.60 (57.75)	765.34 (59.72)	1771.20 (49.36)	642.06 (59.08)
	(b) Salary & Wages . . . . .	641.90 (19.03)	440.43 (18.34)	223.03 (17.40)	679.52 (18.94)	147.26 (13.55)
	(c) News gathering . . . . .	210.36 (6.24)	122.61 (5.11)	36.92 (2.88)	153.51 (4.28)	44.80 (4.13)
	(d) Others . . . . .	508.10 (15.06)	451.23 (18.80)	256.20 (20.00)	984.10 (27.42)	252.58 (23.24)
	(e) Total . . . . .	3373.32	2400.87	1281.49	3588.33	1086.70
3.	Revenue					
	(a) Circulation . . . . .	1685.95 (43.78)	1654.84 (45.95)	755.08 (55.30)	1735.84 (46.07)	629.09 (57.02)
	(b) Advertisement . . . . .	1744.77 (45.31)	1774.75 (49.28)	576.38 (42.21)	1866.51 (49.54)	446.60 (40.48)
	(c) Others . . . . .	419.96 (10.91)	171.96 (4.77)	33.93 (2.49)	165.28 (4.39)	27.56 (2.50)
	(d) Total . . . . .	3850.68	3601.55	1365.39	3767.63	1103.25
4.	Surplus/Deficit . . . . .	477.36	1200.68	83.90	179.30	16.55
5.	Surplus/Deficit as a percentage of total revenue . . . . .	12.39	33.34	6.14	4.76	1.50

### ROLE OF ADVERTISING REVENUE

30. Advertisements at present bring in roughly as much revenue to a newspaper undertaking as the amount earned by the sale of newspaper copies. The financial viability of a newspaper depends, to a large extent, on its pull with the advertisers. This is as true of small and medium newspapers as of the big ones.

31. The advertising which a newspaper can attract is vitally connected with its circulation. Newspapers generally aim at keeping the selling price as low as possible to gain higher circulation which results in higher advertisement rates and revenue. The Managing Director of a leading newspaper company, in a memorandum submitted to the Commission said : "The main factor that determines the selling price of

a newspaper is the direct variable cost viz. cost of the paper, ink, material, packing and freight including local distribution expenses. The traditional principle adopted is that some elements of cost should be recovered from the retail selling price less trade discount paid to agents and vendors. The remaining cost, i.e., direct fixed cost consisting of employees cost (a major share of fixed cost), production cost, expenses incurred on news gathering, news telegrams, teleprinters, conveyance, market promotion, and overheads including bank interest together with the return on investment are covered from the advertisement revenue."

#### Circulation Revenue and Material Cost

32. With the increase in newsprint cost, many newspapers are finding it difficult to meet the material cost, or even the price paid for newsprint, from the circulation revenue.

33. The circulation revenue of 25 of the 50 undertakings whose expenditure and revenue data were analysed was less than their material cost. Nineteen of them belonged to the big and three each to the medium and small categories. In one case, the circulation revenue just equalled the material cost while in the case of the remaining 24 undertakings, the circulation revenue exceeded the material cost.

34. In the case of the 35 daily newspapers studied by us, the circulation revenue of 18 was less than their material cost. Of these, nine were big, four medium and five small dailies. Of the remaining 17 dailies which had circulation revenue more than their material cost, six were big, six medium and five small dailies.

35. In the case of 18 dailies/newspaper undertakings whose financial data for 1970, 1975 and 1980 were analysed by us, the number of newspapers/undertakings with circulation revenue less than newsprint cost went up from five out of 15 to nine out of 18 between 1970 and 1980 as is indicated by the following table :

(No. of newspapers/undertakings)

Year	Net circulation revenue less than newsprint cost	Net circulation revenue more than newsprint cost	Total
1970 . . . . .	5	10	15
1975 . . . . .	6	10	16
1980 . . . . .	9	9	18

36. A study of the financial data of daily newspapers published by the Bennett, Coleman & Company Limited and of a number of other newspaper undertakings reveals that small, medium and big newspapers/undertakings are all equally hit by the increase in newsprint cost.

37. The summarised financial data of the *Times of India*, Bombay, an English daily in the big category, shows that expenditure on newsprint went up from Rs. 94.11 lakhs in 1970 to Rs. 362.70 lakhs in 1980. The share of newsprint in the total expenditure went up from 39.56 per cent to 49.45 per cent during the period. The net circulation revenue over this 10-year period increased, but not in proportion to the increase in expenditure on newsprint. As a result, the gap between circulation revenue and newsprint cost increased from Rs. 14.12 lakhs in 1970 to Rs. 146.56 lakhs in 1980 which was met by the increase in advertisement revenue. The position was the same in the case of the New Delhi and Ahmedabad editions of the *Times of India*. The summarised financial data given in the following tables of nine dailies/editions published by Bennett, Coleman & Company Limited shows that only in four cases, viz. *Economic Times* (Bombay), *Economic Times* (New Delhi), *Navbharat Times* (Bombay) and *Maharashtra Times* (Bombay), the net circulation revenue was more than the expenditure on newsprint in 1980. But even in these cases, the surplus of circulation revenue over newsprint cost is marginal, being in the range of three to four lakh rupees only.

#### 1. Times of India, Bombay.

(Rs. in lakhs)

	1970	1975-76	1980
<b>Major items of Expenditure</b>			
Newsprint . . . . .	94.11 (39.56)	332.07 (47.57)	362.70 (49.45)
Salaries & Wages . . . . .	41.05 (17.25)	74.79 (10.72)	69.74 (9.51)
News Service . . . . .	17.05 (7.16)	22.04 (3.15)	20.87 (2.85)
Total . . . . .	237.89 (100.00)	698.06 (100.00)	733.48 (100.00)
<b>Major items of Revenue</b>			
Circulation (net) . . . . .	79.99 (19.86)	244.62 (25.69)	216.14 (21.10)
Advertisement (net) . . . . .	310.50 (77.09)	679.20 (71.32)	771.25 (75.30)
Sale of Waste Paper . . . . .	12.26 (3.05)	27.81 (2.92)	33.45 (3.27)
Rent . . . . .	(—)	(—)	(—)
Total . . . . .	402.75 (100.00)	952.38 (100.00)	1024.25 (100.00)

(Figures within brackets indicate the percentages)

## 2. Times of India, New Delhi

	1970	1975-76	1980
<b>Major items of Expenditure</b>			
Newsprint . . . . .	40.37 (35.44)	156.79 (51.04)	242.24 (57.30)
Salaries & Wages . . . . .	19.87 (17.45)	33.63 (10.95)	29.58 (6.98)
News Service . . . . .	— (—)	— (—)	— (—)
Total . . . . .	113.92 (100.00)	307.22 (100.00)	422.76 (100.00)
<b>Major items of Revenue</b>			
Circulation (net) . . . . .	32.05 (34.59)	113.98 (35.84)	140.69 (31.32)
Advertisement (net) . . . . .	55.71 (60.12)	190.03 (59.75)	276.05 (61.45)
Sale of Waste Paper . . . . .	4.54 (4.90)	11.92 (3.75)	30.65 (6.82)
Rent . . . . .	0.19 (0.21)	0.80 (0.25)	0.51 (0.11)
Total . . . . .	92.66 (100.00)	318.04 (100.00)	449.22 (100.00)

(Figures within brackets indicate the percentages)

## 3. Economic Times, Bombay

	1970	1975-76	1980
<b>Major items of Expenditure</b>			
Newsprint . . . . .	6.93 (11.59)	29.32 (23.96)	17.53 (17.58)
Salaries & Wages . . . . .	19.27 (32.23)	41.28 (33.73)	35.32 (35.42)
News Service . . . . .	4.89 (8.18)	9.65 (7.89)	7.54 (7.56)
Total . . . . .	59.79 (100.00)	122.38 (100.00)	99.72 (100.00)
<b>Major items of Revenue</b>			
Circulation (net) . . . . .	12.25 (29.53)	37.83 (32.17)	22.60 (29.04)
Advertisement (net) . . . . .	28.44 (68.55)	77.42 (65.84)	53.36 (68.58)
Sale of Waste Paper . . . . .	0.80 (1.92)	2.26 (1.92)	1.71 (2.20)
Rent . . . . .	— (—)	— (—)	— (—)
Total . . . . .	41.49 (100.00)	117.58 (100.00)	77.83 (100.00)

(Figures within brackets indicate the percentage)

## 4. Economic Times, New Delhi

	1970	1975-76	1980
<b>Major items of Expenditure</b>			
Newsprint . . . . .	— (—)	27.34 (48.89)	15.43 (33.69)
Salaries & Wages . . . . .	— (—)	6.30 (11.27)	8.03 (17.54)
News Service . . . . .	— (—)	— (—)	— (—)
Total . . . . .	— (—)	55.92 (100.00)	45.80 (100.00)
<b>Major items of Revenue</b>			
Circulation (net) . . . . .	— (—)	22.66 (27.51)	17.30 (35.95)
Advertisement (net) . . . . .	— (—)	53.25 (64.64)	28.27 (58.77)
Sale of Waste Paper . . . . .	— (—)	1.91 (2.32)	2.03 (4.22)
Rent . . . . .	— (—)	0.21 (0.25)	0.15 (0.31)
Total . . . . .	— (—)	82.38 (100.00)	48.10 (100.00)

(Figures within brackets indicate the percentages)

## 5. Times of India, Ahmedabad

	1970	1975-76	1980
<b>Major items of Expenditure</b>			
Newsprint . . . . .	13.75 (38.31)	24.02 (32.57)	59.77 (48.03)
Salaries & Wages . . . . .	5.53 (15.40)	13.63 (18.48)	15.81 (12.70)
News Service . . . . .	1.29 (3.59)	2.46 (3.34)	2.30 (1.85)
Total . . . . .	35.89 (100.00)	73.75 (100.00)	124.45 (100.00)
<b>Major items of Revenue</b>			
Circulation (net) . . . . .	11.00 (62.97)	38.79 (64.32)	41.47 (27.58)
Advertisement (net) . . . . .	4.73 (27.07)	14.31 (23.73)	102.83 (68.39)
Sale of Waste Paper . . . . .	1.54 (8.82)	3.82 (6.33)	5.46 (3.63)
Rent . . . . .	— (—)	— (—)	— (—)
Total . . . . .	17.47 (100.00)	60.31 (100.00)	150.35 (100.00)

(Figures within brackets indicate the percentages)

## 6. Evening News of India, Bombay

	1970	1975-76	1980
<b>Major items of Expenditure</b>			
Newsprint . . . . .	3.17 (24.54)	15.76 (68.70)	10.34 (59.73)
Salaries & Wages . . . . .	4.48 (34.67)	1.31 (5.71)	0.91 (5.25)
News Service . . . . .	0.81 (6.27)	2.03 (8.85)	1.91 (11.04)
Total . . . . .	12.92 (100.00)	22.94 (100.00)	17.31 (100.00)
<b>Major items of Revenue</b>			
Circulation (net) . . . . .	4.27 (20.08)	14.33 (28.83)	9.25 (23.96)
Advertisement (net) . . . . .	16.64 (78.27)	34.20 (68.80)	28.26 (73.21)
Sale of Waste Paper . . . . .	0.35 (1.65)	1.41 (2.84)	0.99 (2.56)
Rent . . . . .	— (—)	— (—)	— (—)
Total . . . . .	21.26 (100.00)	49.71 (100.00)	38.60 (100.00)

(Figures within brackets indicate the percentages)

## 8. Navbharat Times, Delhi

	1970	1975-76	1980
<b>Major items of Expenditure</b>			
Newsprint . . . . .	53.69 (47.10)	219.50 (64.33)	260.28 (66.12)
Salaries & Wages . . . . .	12.91 (11.33)	25.47 (7.46)	22.49 (5.71)
News Service . . . . .	— (—)	— (—)	— (—)
Total . . . . .	114.00 (100.00)	341.21 (100.00)	393.63 (100.00)
<b>Major items of Revenue</b>			
Circulation (net) . . . . .	57.66 (54.19)	190.29 (60.78)	228.12 (53.36)
Advertisement (net) . . . . .	42.26 (39.72)	104.40 (33.35)	164.49 (38.48)
Sale of Waste Paper . . . . .	6.11 (5.74)	16.62 (5.31)	33.31 (7.79)
Rent . . . . .	0.20 (0.19)	0.56 (0.18)	0.36 (0.08)
Total . . . . .	106.40 (100.00)	313.08 (100.00)	427.49 (100.00)

(Figures within brackets indicate the percentages)

## 7. Navbharat Times, Bombay

	1970	1975-76	1980
<b>Major items of Expenditure</b>			
Newsprint . . . . .	18.93 (36.32)	62.98 (51.74)	55.83 (51.61)
Salaries & Wages . . . . .	12.68 (24.33)	17.05 (14.01)	15.17 (14.03)
News Service . . . . .	3.47 (6.67)	6.02 (4.95)	3.90 (3.61)
Total . . . . .	52.12 (100.00)	121.72 (100.00)	108.18 (100.00)
<b>Major items of Revenue</b>			
Circulation (net) . . . . .	22.37 (56.09)	63.75 (67.70)	59.09 (64.24)
Advertisement (net) . . . . .	15.48 (38.82)	25.62 (27.21)	27.13 (29.49)
Sale of Waste Paper . . . . .	1.99 (4.99)	4.65 (4.94)	5.24 (5.70)
Rent . . . . .	— (—)	— (—)	— (—)
Total . . . . .	39.88 (100.00)	94.17 (100.00)	91.99 (100.00)

(Figures within brackets indicate the percentages)

## 9. Maharashtra Times, Bombay

	1970	1975-76	1980
<b>Major items of Expenditure</b>			
Newsprint . . . . .	25.77 (44.98)	101.51 (55.34)	104.80 (55.21)
Salaries & Wages . . . . .	10.31 (18.00)	23.83 (12.99)	23.90 (12.59)
News Service . . . . .	3.41 (5.95)	6.06 (3.30)	5.05 (2.66)
Total . . . . .	57.29 (100.00)	183.40 (100.00)	189.81 (100.00)
<b>Major items of Revenue</b>			
Circulation (net) . . . . .	32.71 (56.59)	104.19 (63.10)	105.64 (62.41)
Advertisement (net) . . . . .	22.37 (38.70)	53.10 (32.16)	52.93 (31.27)
Sale of Waste Paper . . . . .	2.71 (4.69)	7.60 (4.61)	9.72 (5.74)
Rent . . . . .	— (—)	— (—)	— (—)
Total . . . . .	57.80 (100.00)	165.03 (100.00)	169.27 (100.00)

(Figures within brackets indicate the percentages)



38. The summarised profit and loss accounts of the Hindustan Times Limited, New Delhi, given in the following table indicate that the share of newsprint in the total expenditure went up from 45.64 per cent in 1974-75 to 55.03 per cent in 1979-80 and that there was no proportional increase in the circulation revenue. The gap between circulation revenue and newsprint cost increased from Rs. 9.79 lakhs in 1974-75 to Rs. 215.31 lakhs in 1979-80 which was met by the increase in advertisement revenue.

#### HINDUSTAN TIMES LIMITED

##### Major Items of Expenditure

(Rs. in lakhs)

Year	News-print	Salaries & Wages	News Services	Depreciation	Total
1	2	3	4	5	6
1974-75	268.84 (45.64)	128.43 (21.80)	13.81 (2.34)	23.23 (3.94)	589.07 (100.00)
1976-77	520.51 (55.33)	161.62 (17.18)	21.36 (2.27)	20.66 (2.20)	940.79 (100.00)
1977-78	531.94 (53.37)	182.14 (18.27)	23.93 (2.40)	18.57 (1.86)	996.74 (100.00)
1978-79	535.35 (52.06)	196.57 (19.12)	26.65 (2.59)	19.04 (1.85)	1028.32 (100.00)
1979-80	736.98 (55.03)	224.91 (16.79)	28.69 (2.14)	26.37 (1.97)	1339.23 (100.00)

(Figures within brackets indicate the percentages)

##### Major Items of Revenue

Year	Net Circulation revenue	Net Advertisement revenue	Sale of waste paper	Rent from properties	Total revenue
1974-75	259.05 (42.45)	265.93 (43.58)	10.87 (1.78)	59.80 (9.80)	610.28 (100.00)
1976-77	346.30 (35.52)	529.27 (54.28)	16.14 (1.66)	65.03 (6.67)	975.05 (100.00)
1977-78	387.65 (37.04)	559.76 (53.49)	17.50 (1.67)	62.51 (5.97)	1046.51 (100.00)
1978-79	412.58 (36.63)	601.42 (53.40)	20.73 (1.84)	66.65 (5.92)	1126.23 (100.00)
1979-80	521.12 (38.67)	707.33 (52.49)	31.58 (2.34)	67.41 (5.00)	1347.55 (100.00)

(Figures within brackets indicate the percentages)

39. In the case of *Malayala Manorama*, an Indian language daily in the big category published from several centres in Kerala, the newsprint cost went up from Rs. 65.88 lakhs in 1970 to Rs. 538.23 lakhs in 1980 pushing up its share in the total expenditure from 40.43 per cent to 60.51 per cent. The circulation revenue during the period increased from Rs. 105.78 lakhs to Rs. 615.32 lakhs. While in 1970 the net circulation revenue more than met the expenditure on newsprint and salaries and wages as a whole, in 1980 the net circulation revenue covered the cost of newsprint only leaving a marginal surplus.

The following table contains the summarised financial data of this newspaper :

#### MALAYALA MANORAMA

(Rs. in lakhs)

	1970	1975	1980
<b>Major items of Expenditure</b>			
Newsprint	65.88 (40.61)	191.95 (56.62)	538.23 (60.51)
Salaries & Wages	31.76 (19.58)	56.56 (16.69)	120.54 (13.55)
News Service	6.61 (4.07)	9.61 (2.83)	23.46 (2.64)
Total	162.22 (100.00)	338.99 (100.00)	889.55 (100.00)
<b>Major items of Revenue</b>			
Circulation (net)	105.78 (63.22)	232.23 (66.74)	615.32 (66.62)
Advertisement (net)	60.07 (35.90)	109.14 (31.37)	291.94 (31.61)
Sale of Waste Paper	1.35 (0.63)	2.36 (0.68)	11.44 (1.24)
Rent	—	—	—
Total	167.31 (100.00)	347.96 (100.00)	923.67 (100.00)

(Figures within brackets indicate percentages)

40. In the case of *Siasat*, a medium Urdu daily published from Hyderabad, the expenditure on newsprint went up from Rs. 2.27 lakhs in 1969-70 to Rs. 20.14 lakhs in 1979-80 pushing up its share in the total expenditure from 32.06 to 56.04 per cent. The circulation revenue of this newspaper was only marginally more than its newsprint cost. The following table contains the summarised financial data :

#### THE SIASAT DAILY, HYDERABAD

(Rs. in lakhs)

	1969-70	1975-76	1979-80
<b>Major items of Expenditure</b>			
Newsprint	2.27 (32.06)	7.60 (49.77)	20.14 (56.04)
Salaries & Wages	0.90 (12.71)	1.47 (9.63)	2.48 (6.90)
News Service	0.45 (6.36)	0.62 (4.06)	1.37 (3.81)
Total	7.08 (100.00)	15.27 (100.00)	35.94 (100.00)
<b>Major items of Revenue</b>			
Circulation (net)	3.66 (51.69)	8.32 (54.49)	22.10 (61.49)
Advertisement (net)	3.42 (48.31)	6.87 (44.99)	13.78 (38.34)
Sale of Waste Paper	—	—	—
Rent	—	—	—
Total	7.08 (100.00)	15.27 (100.00)	35.94 (100.00)

(Figures within brackets indicate percentages)

41. In the case of *Prabhat*, a small Gujarati daily published from Ahmedabad, the cost of newsprint went up from Rs. 1.39 lakhs in 1971 to Rs. 3.50 lakhs in 1980. Its net circulation revenue was Rs. 2.63 lakhs in 1980, i.e. Rs. 87,000 less than its newsprint cost. The following table contains the summarised financial data of this newspaper :

PRABHAT, AHMEDABAD

	(Rs. in lakhs)		
	1971	1975	1980
<b>Major items of Expenditure</b>			
Newsprint . . . . .	1.39 (15.96)	1.45 (12.00)	3.50 (24.63)
Salaries and Wages . . . . .	2.39 (27.44)	3.04 (25.17)	4.84 (34.06)
News Service . . . . .	0.29 (3.33)	0.32 (2.65)	0.30 (2.11)
Total . . . . .	8.71 (100.00)	12.08 (100.00)	14.21 (100.00)
<b>Major items of Revenue</b>			
Circulation (net) . . . . .	1.21 (13.77)	2.52 (22.78)	2.63 (18.38)
Advertisement (net) . . . . .	0.94 (10.69)	0.99 (8.95)	1.00 (6.99)
Sale of Waste Paper . . . . .	—	—	—
Rent . . . . .	—	—	—
Total . . . . .	8.79 (100.00)	11.06 (100.00)	14.31 (100.00)

(Figures within brackets indicate percentages)

*Effect of Increase in Sale Price on Circulation*

42. The Commission came across conflicting viewpoints on the effect the increase in retail prices of newspapers had on their circulation. Newspaper publishers were generally of the view that increases in the sale prices of newspapers in a developing country like India would result in fall in circulation of newspapers or at least reduce the growth rate of their circulation. The representatives of newspaper employees, however, were of the view that with the increases in Literacy and Purchasing Power of the people there was great scope for growth of newspapers. The reports of the Palekar Tribunals for Working Journalists and Non-Journalist Newspaper Employees submitted to Government on 12th August, 1980 support this view. The reports point out that although the employers' representatives on the Shinde Wage Board for non-journalist newspaper employees had vehemently opposed recommendations similar to those made in them on the ground that if they were implemented, it would spell the doom of the newspaper industry and that many newspapers would be forced to close down, those prophecies of doom had been belied in the 13 years after the implementation of the recommendations of the Shinde Award. The Reports further point out that if one or two small papers had closed down, the reasons therefor must be sought elsewhere and not attributed to the hardships faced by the industry as a whole.

43. The Palekar Reports say that the profits of the newspaper industry are rising and despite repeated hikes in the sale price of newspapers and advertisement rates, there has been no consumer resistance, as is evident from the rise in circulation of newspapers.

44. To gauge recent trends in circulation when retail prices of newspapers have been increased substantially due to increase in newsprint cost, levy of customs duty on newsprint, implementation of Palekar Awards and successive increases in dearness allowance payable to employees, the Commission's office undertook an analysis of the Audit Bureau of Circulations (ABC) certificates for the period July 1980 to June 1981. It was found that in the case of dailies for which comparative circulation figures were available, circulation in the period January—June 1981 was 1.9 per cent lower than in the previous six-month period. Weeklies suffered a fall in circulation of 2.8 per cent and fortnightly and monthly magazines a fall of 1.0 per cent. It is to be seen whether this is a temporary phase or a general trend. Appendix IX.8 contains a report on the analysis of the data collected in this behalf.

*Increase in Advertising Revenue : Press and Radio*

45. Increased dependence on advertisement revenue is not confined to the Press only. All India Radio's income from commercial advertisements has increased nearly 60 times in the last 14 years as is clear from its year-wise gross earnings from this source :

	(In Rs. lakhs)
1967-68 . . . . .	19.00
1968-69 . . . . .	88.00
1969-70 . . . . .	230.00
1970-71 . . . . .	296.00
1971-72 . . . . .	423.00
1972-73 . . . . .	469.00
1973-74 . . . . .	488.00
1974-75 . . . . .	539.00
1975-76 . . . . .	626.00
1976-77 . . . . .	686.00
1977-78 . . . . .	774.00
1978-79 . . . . .	870.00
1979-80 . . . . .	1030.00
1980-81 (up to Feb.) . . . . .	1140.00

Provisional, subject  
to reconciliation  
of Audit.

46. Commercials on radio were introduced in India in November 1967 when the Bombay Station of All India Radio started putting out spot advertisements. The Calcutta Station followed in October 1968, and the Delhi and Madras stations in April 1969. The number increased progressively and as of now, 15 main stations and 13 stations linked with them are operating the commercial service.

47. The revenue from commercial advertising on radio which was Rs. 19 lakhs in the year of its inception went up to Rs. 626 lakhs in 1975-76 when six additional stations took up commercial broadcastings. Although no new station started commercial broadcasting, thereafter, the revenue has gone up steadily, reaching the level of Rs. 1,140 lakhs in the first 11 months of 1980-81. This increase has been due to greater utilisation of available time for commercial services in different stations. According to Director of Programmes (Commercial), All India Radio, in the four metropolitan broadcasting centres, the available time has been fairly well utilised but the percentage of utilisation at most of the other centres is low.

48. The following figures of All India Radio's revenue from broadcast receiver licences and commercial services taken from the Performance Budget of the Ministry of Information & Broadcasting for 1980-81 show that the revenue from commercial services has been increasing steadily over the last three or four years :

#### AIR REVENUE RECEIPTS

(Rs. in lakhs)

Source	Actuals 1978-79	Budget Estima- tes 1979-80	Revised Estima- tes 1979-80	Budget Estima- tes 1980-81
(i) B.R. Licences	2896.28	3539.00	3453.00	3530.00
(ii) Commercial Services	889.48	820.05	900.14	920.00
(iii) Radio Publications	8.26	8.48	8.80	8.55
(iv) Non-Commercial	10.10	4.22	10.73	10.19
(v) Commercial	20.65	15.72	25.82	22.95
Total	3824.77	4387.47	4398.49	4491.69

49. The advertisement rates for commercials on AIR have been increased from time to time. A 15—Seconds-spot on AIR—Bombay which cost Rs. 130 in 1975 went up by 85% to Rs. 240 in 1981. At some other centres, the rates have gone up by 200 to 300 per cent.

50. The revenue of Doordarshan from commercials which was Rs. 77 lakhs in the first full year of operation in 1976-77 went up to Rs. 6 crores in 1979-80. According to the Performance Budget of the Ministry of Information and Broadcasting, there is an ever increasing demand for commercials on Doordarshan indicating that it is the most sought after medium of advertisement by manufacturers and producers.

51. It came to our notice that the Ministry of Information and Broadcasting has decided to throw open the primary channels of All India Radio to

commercial advertisements. We think that this step will naturally affect the inflow of advertisements to newspapers.

#### ADVERTISING SPACE AND COST

52. The report of the First Press Commission contained the data relating to the space devoted to advertisements in 28 dailies. Twenty-two of these dailies were among those covered in the content analysis of daily newspapers conducted on behalf of the Commission by the Operations Research Group, Baroda and, therefore, we were able to compare that data with the data for the years 1972 and 1981 presented by the ORG. In all these 22 dailies, there was an increase in the ratio of space devoted to advertisements since the First Press Commission reported. However, the percentage of advertisement space in four of these dailies decreased between May 1972 and May 1981. The comparative figures are given in Appendix IX.9.

#### *Advertisement space in daily newspapers 1972 and 1981*

53. Apart from the 22 dailies mentioned above, there were 98 others covered in the ORG survey of newspaper contents in 1981 for which comparable data for 1972 were available. An analysis of the data of all these 120 dailies showed that in the case of 95 of them, there was an increase in the space devoted to advertisements between 1972 and 1981. Of these 95 dailies, the increase was 75 per cent or more in the case of 17 dailies, between 50 and 75 per cent in the case of 21 dailies, between 25 and 50 per cent in the case of 20 dailies and less than 25 per cent in the case of the remaining 37 dailies. Twenty-five of the 120 dailies covered recorded a drop in the share of space devoted to advertisements. Appendix IX.10 indicates the variation in the space devoted to advertisements in the said 120 dailies between 1972 and 1981.

#### *Advertisement space in dailies of different languages*

54. Dailies in Hindi, English and Malayalam recorded a greater increase in advertisement space between 1972 and 1981 than other languages. The language-wise break-up of 17 dailies whose advertisement space ratio went up by more than 75 per cent was Hindi-6, English-3, Malayalam-3, Gujarati-1, Marathi-1, Oriya-1, Punjabi-1 and Sindhi-1. Appendix IX.11 gives the increase/decrease in advertisement space from 1972 to 1981 in respect of dailies published in different languages.

55. Twenty-eight of the 120 dailies devoted more than 40 per cent of their space to advertisements both in 1972 and 1981, the language-wise break-up of this group being : English-14, Marathi-5, Gujarati-4, Hindi-1, Bengali-1, Kannada-1, Tamil-1 and Urdu-1. Appendix IX.12 contains the data in this behalf. Thirty of the 120 dailies which were giving less than 40 per cent space to advertisements in 1972 devoted 40 per cent or more space to advertisements in 1981.

the language-wise break-up of this group being : Hindi—8, Marathi—5, Gujarati—4, English—4, Malayalam—3, Oriya—2, Bengali—1, Kannada—1, Telugu—1 and Urdu—1. Appendix IX.13 contains the data in this behalf.

#### *Analysis of advertising space and cost in 1981*

56. The ORG survey of newspaper contents covered 503 publications consisting of 234 dailies, 181 weeklies, 22 fortnightlies and 66 monthlies. The break-up of these publications circulation-wise is as follows :

Periodicity	Circulation Range			Total
	Big (More than 50,000)	Medium (15,000- 50,000)	Small (up to 15,000)	
Daily . . .	53	77	104	234
Weekly . . .	37	36	108	181
Fortnightly . . .	9	8	5	22
Monthly . . .	25	24	17	66
Total . . .	124	145	234	503

57. The percentage of space devoted to advertisements was considerably more in the case of dailies than periodicals in all languages other than Kannada and Sindhi. The average space devoted to advertisements was 39 per cent in the case of dailies, 27 per cent in the case of weeklies and 31 per cent in the case of monthlies.

58. In terms of space devoted to advertisements among dailies of different languages, English dailies were at the top with 49 per cent of total space, followed by Marathi dailies with 41 per cent. The space devoted to advertisements was the least in Sindhi dailies viz., 23 per cent.

59. In terms of space devoted to advertisements among weeklies of different languages, those in Kannada were at the top with 42 per cent and those in Punjabi at the bottom with 11 per cent. In the case of fortnightlies, the space devoted to advertisements was the highest with 38 per cent in English, and the lowest with seven per cent in Gujarati. In the case of monthlies, the space devoted to advertisements was the highest in Malayalam with 48 per cent followed by Punjabi with 37 per cent. Appendix IX. 14 contains data in respect of the space devoted to advertisements in newspapers of different periodicities in different languages.

60. Display advertisements as a whole occupied 92 per cent of the total advertising space in dailies. There were hardly any classified advertisements in fortnightlies and monthlies.

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#### *Advertisement rates*

61. In contrast to the relative amount of space devoted to advertisements, the rates per square centimetre of space in periodicals were much higher than in dailies.

62. Among dailies, the average advertisement rate was the highest in Bengali (Rs. 9.23) and the lowest in Oriya (Rs. 0.40). In the case of weeklies, the average advertisement rate was the highest in Tamil (Rs. 8.13) and the lowest in Urdu (Rs. 1.39). On the whole, advertisement rates of English newspapers were much higher than those of newspapers in other languages. Appendix IX.15 contains the average advertisement rates per square cm in newspapers of different periodicities in different languages. The rates given here, being average advertisement rates, do not reflect the actual rates prevailing in different categories of newspapers viz., big, medium and small.

#### *Contents of advertisements*

63. Consumer-oriented advertisements constituted more than 20 per cent of the advertisement space in dailies in English, Hindi, Bengali, Marathi, Gujarati, Kannada and Oriya. Industrial advertisements occupied relatively more space in dailies in Punjabi (15.2 per cent), English (10.8 per cent), Oriya (9.2 per cent), Sindhi (9.9 per cent), Bengali (8.2 per cent) and Tamil (8.9 per cent) than in other languages. Twenty to 40 per cent advertisements in very big dailies with a circulation of over one lakh were found to be consumer-oriented as against less than 20 per cent in very small dailies with circulations of less than 5,000. As circulation of dailies decreased, the level of consumer advertising dropped. This was also the case with advertisements on finance.

64. About one-third of the advertisement space in Urdu and around one-fourth in Telugu and Malayalam dailies was occupied by entertainment advertisements (cinema, hotels, tourism etc.). One-fifth of the advertisement space in Kannada and Marathi was devoted to such advertisements.

65. English dailies had the maximum (12 per cent) of advertising space devoted to advertisements offering or seeking employment.

66. Tamil, Gujarati, Sindhi and Bengali dailies had relatively more advertisement space for finance (deposits, chit funds, lotteries, banks etc.) than in other languages.

67. Image-building advertisements were more in English (13.1 per cent of space) and Assamese (11.6 per cent) dailies than in other languages. The space occupied by them was quite high in Bengali and Sindhi also.

68. Punjabi dailies had relatively more advertisements (occupying 4.4 per cent of the advertisement space) on farm related products/services (fertilisers,

seeds, tractors etc.). Tamil, Assamese and Oriya also had a good proportion of advertisements on farm inputs.

#### Share of newspapers with different circulations

69. The ORG survey found that very big publications with over one lakh circulation accounted for 61.8 per cent of the total advertising income and 30.7 per cent of the total advertising space. If newspapers with a circulation of 50,000 to 1,00,000 were grouped with very big newspapers, over 77 per cent of the total advertising income was accounted for by that group. The following table gives the distribution of total (display plus classified) advertisement space/revenue among newspapers of different circulation ranges consisting of 503 publications in all covered by the ORG study :

Category	Advertisement space (per cent)	Advertisement Revenue (per cent)
Very Big (with circulation of over 1,00,000)	30.7	61.8
Big (circulation from 50,000 to 1,00,000)	20.3	15.4
Medium (circulation from 15,000 to 50,000)	30.6	16.5
Small (circulation from 5,000 to 15,000)	14.5	5.4
Very Small (circulation less than 5,000)	3.9	0.9
	100.0	100.0

Circulation range	(In lakhs rupees)				
	Dailies	Weeklies	Fortnightlies	Monthlies	Total
Very Big (1,00,000 and above)	10794.24	817.25	194.04	251.59	12057.12
Big (50,000 to 1,00,000)	1959.18	305.25	146.26	60.92	2471.61
Medium (15,000 to 50,000)	3292.93	137.39	35.08	53.04	3518.44
Small (5,000 to 15,000)	822.92	53.48	10.55	47.74	934.69
Very Small (less than 5,000)	145.58	48.96	0.08	3.06	197.68
Total	17014.85	1362.33	386.01	416.35	19179.54

72. The ORG survey covered a fairly good sample of big and medium newspapers but not of small newspapers. While it could generally be assumed that publications falling under the categories of 'very big' and 'big' newspapers not covered in the ORG survey would be coming out actually, such an assumption could not be made in the case of publications falling under the categories of 'medium', 'small' and 'very small' newspapers. It had come to our notice that in many cases, small and very small newspapers came out irregularly. Further, small newspapers are generally not able to attract a large amount of advertising on remunerative advertisement tariffs and in many cases, they have to accept advertisements whatever be the rates offered. Keeping in view these factors,

The actual space and cost of all advertisements in publications of different periodicities—language-wise and size-wise are contained in the tables set out in Appendix IX. 16.

#### Estimates of total advertising through the Press

70. Exact figures of total advertising through the Press in the country over the years were not available. The rough estimate of total expenditure on advertising through the Press given in the Indian News and Features Alliance (INFA) Press and Advertisers Year Book for 1973 was Rs. 60 crores in 1971-72. The INFA Year Book for 1980 put the expenditure on advertising through the 266 reporting member-newspapers of the Indian and Eastern Newspaper Society at Rs. 103 crores during 1979.

71. On the basis of the actual space and cost of advertisements in the publications covered by the ORG survey of newspaper contents relating to the year 1981, the Commission's secretariat worked out the value of advertisements for the whole year by relating it to the number of issues of different publications covered in the survey. This was done by assuming that at least, 300 issues of a daily, 45 issues of a weekly, 20 issues of a fortnightly and 10 issues of a monthly came out during the year. The following table gives the estimates of advertisement value for the whole year 1981 in respect of the 503 publications covered by the ORG survey worked out on the basis indicated above :

(In lakhs rupees)

Circulation range	Dailies	Weeklies	Fortnightlies	Monthlies	Total
Very big	9175.10	694.66	164.94	205.35	10240.05
Big	1665.30	259.46	124.32	51.78	2100.86
Medium	4615.72	235.54	54.49	174.68	5080.43
Small and Very small	2237.97	632.77	133.38	1372.20	4376.32
Total	17694.09	1822.43	477.13	1804.01	21797.66

we reckoned that while the value of advertisements carried in the 'very big' and 'big' newspapers not covered in the survey would be at the same level as in the case of newspapers of those categories covered in the survey, a deduction had to be made in the case of medium and small newspapers. Therefore we made a reduction of 10 per cent in the case of medium newspapers and 33½ per cent in the case of small and very small newspapers to arrive at the estimate of value of advertisements carried by them. On this basis, we have computed the total value of advertisements (after deducting 15 per cent agency discount) for the whole year 1981 in respect of all the newspapers listed in the Press Registrar's report for the year 1980 as follows :

Circulation range	(in rupees lakhs)				
	Dailies	Weeklies	Fortnightlies	Monthlies	Total
Very big	9175.10	694.66	164.94	205.35	10240.05
Big	1665.30	259.46	124.32	51.78	2100.86
Medium	4615.72	235.54	54.49	174.68	5080.43
Small and Very small	2237.97	632.77	133.38	1372.20	4376.32
Total	17694.09	1822.43	477.13	1804.01	21797.66

73. As noted by us earlier, the analysis of revenue and expenditure data of 50 newspaper undertakings for the year 1977-78 revealed that those undertakings were deriving 47.20 per cent of their revenue from circulation and 46.82 per cent from advertisements. Further, the analysis of revenue and expenditure data in respect of 18 dailies/newspaper companies for the year 1980 revealed that they were deriving 42.82 per cent of their revenue from circulation and 51.99 per cent from advertisements. From this it appeared that the ratio between circulation and advertisement revenue generally ranged between 45 : 55 and 55 : 45. Working out the circulation revenue on this basis, the estimates of revenue of newspaper undertakings for the year 1981 arrived at by us was as follows :

Estimated advertisement revenue (in Rs. lakhs)	Circulation revenue & advertisement revenue ratio	Circulation revenue (in lakhs)	Total of advertisement and circulation revenue (in Rs. lakhs)
21,797.66	45:55	17,834.45	39,632.11
	50:50	21,797.66	43,595.32
	55:45	26,641.58	48,439.24

#### ADVERTISING AGENCIES

74. To get information about the role played by advertising agencies in the release and placing of advertisements in newspapers a questionnaire (Appendix I.25) was issued in December 1978 to 160 advertising agencies accredited to the Indian and Eastern Newspaper Society. The questionnaire sought information on, among other things, volume of advertising placed by the agencies in newspapers during 1977-78 (together with a list of the 10 most frequently used newspapers), their total turnover during the year, the languages in which advertising was handled by them, self-regulation, unethical practices, any false claims made in advertisements, and consumer protection against false advertisements. Only 17 agencies responded to this questionnaire.

75. A slightly modified version of the above questionnaire which included three fresh questions seeking information on (a) the basis of distribution of total advertising to different media, (b) the names of top 10 clients of the agencies, and (c) the ownership of the agencies (Appendix I.31) was once again sent to 386 accredited as well as non-accredited agencies in February 1981. Only 18 advertising agencies responded.

76. An analysis of the replies received to the questionnaires (Appendix IX.17) revealed that the total volume of advertising placed in newspapers by the 18 advertising agencies during 1979-80 worked out to Rs. 16.48 crores as against their total business turnover of Rs. 22.55 crores. Six major agencies had a total turnover of more than Rs. one crore each. The maximum turnover of an agency was Rs. 9.24 crores. Except in the case of one agency, the volume of advertising placed by the agencies in newspapers was higher than the volume in other media.

77. The First Press Commission had estimated that 109 advertising agencies which were operating in 1951 had placed advertisements worth Rs. 2.78 crores in the Press. At that time, the total quantum of Press advertisements was estimated at Rs. five crores.

#### Criteria for placing advertisements

78. According to the replies received in response to the questionnaires the major considerations which generally weigh with the advertising agencies in releasing advertisements through the Press are the readership and circulation of the newspaper, the nature of the product to be advertised and the cost efficiency of the medium. Only two agencies stated that they do release advertisements on other than commercial considerations when instructed to do so by their clients.

79. Most of the advertising agencies depend on the certificates of circulation in respect of newspapers issued by the Audit Bureau of Circulations (ABC). Some of them also take into account the data contained in the National Readership Surveys. In the case of a newspaper which is not a member of the ABC, the agencies sometimes take into consideration the circulation figures given in the reports of the Press Registrar. In a few cases, advertising agencies depend on their local agents or clients for information on the circulation and standing of newspapers not covered by the ABC.

80. Three of the six major agencies with a total turnover of Rs. one crore each are owned by private limited companies. Two of them are owned by public limited companies while the remaining one is an individual firm. The advertising agencies prepare and release advertisements in all major Indian languages apart from English. Three of the agencies also use some foreign languages.

81. Out of the 27 agencies which replied either to the first or to the second questionnaire, 15 were members of the Association of Advertising Agencies of India (AAA). Two of the major agencies were not members of AAA.

82. Representatives of several small and medium newspapers and of newspapers published from mofussil centres told the Commission that advertising agencies, which were generally subsidiaries of big business and big papers, served the interests of big newspapers. It was alleged that at the national-level, the advertising agencies released advertisements only to big newspapers. An economist asserted in his evidence that advertisements were being made use of by big business to transfer resources to inter-connected newspaper companies and to influence the policies of newspapers. But two other important witnesses—the publisher of a Calcutta daily and the Director of a research institution—who did not agree with this view told the Commission that advertisers and advertising agencies were not in a position to influence the policies of big newspapers as those newspapers were not dependent on any single advertiser to any significant extent.

83. Another witness—the Managing Editor of a Lucknow daily—told the Commission that very often the advertisers had ulterior motives; he said that an industrial house released advertisements a number of times to a daily newspaper close to the political party in power to ingratiate itself with that political party.

84. One view canvassed before us was that advertising agency executives who were generally sophisticated urbanites found it easier to deal with newspapers published from metropolitan cities and State capitals as such newspapers could be monitored easily, whereas in the case of mofussil newspapers whose voucher copies would take time to reach the agency they would have to wait for the realisation of their 15 per cent commission for release of advertisements.

85. The Indian Languages Newspapers Association stated in a memorandum submitted to the Commission that advertising agencies should be registered at the regional or State level with a body composed of newspapers, advertising agencies and advertisers. The All India Small and Medium Newspapers Association, in a memorandum submitted to the Commission, urged that the commercial advertising agencies should be so regulated as to help small and medium newspapers.

86. We are of the view that the neglect of small and medium newspapers has arisen primarily because of the notion that there is no need to reach the small-town and rural audience. Advertisers and advertising agencies, and even the Central and State Governments, do not seem to have taken adequate cognizance of the existing growth potential in the consumption of consumer products in rural areas and the possibility of reaching a large rural audience through the Press. As the note in Appendix VIII. 12 on Importance of the Rural Market shows, the growth rate of consumption of consumer products in the rural areas is greater than in the case of urban areas. Further, the level of education and the purchasing power of the people in rural areas are rising continuously.

87. We are of the view that the Central and State Governments as well as private advertisers and advertising agencies should make efforts to reach the rural audience more extensively, depending upon the nature of the product or the service advertised.

88. We recommend that the Press Registrar should collect information on the ownership structure of advertising agencies and their performance including the value of advertising handled on behalf of different clients and release of advertisements to different newspapers. This will, *inter alia*, enable the public to judge whether there are undesirable consequences arising from links between the advertising agencies and industrial houses.

89. It came to the Commission's notice that some foreign Governments or their Embassies place full page or even two page advertisements in leading Indian dailies to publicise their leaders and their policies. We also noticed that a lot of space was

occupied by advertisements of individuals and commercial organisations containing laudatory statements and photographs.

90. We are of the view that such self laudatory statements and photographs, whether put out by governments or by enterprises in the private or public sector or by other institutions, serve neither the advertiser's interest nor the public interest.

91. We noticed that in some cases advertisements are not identified as such. This is an unethical practice. We are of the view that any paid information published in a newspaper should be clearly identified as such. We recommend that the Press Council should go into cases where newspapers do not observe this principle.

#### *Code of Ethics in Advertising*

92. There are three Codes of Ethics in advertising framed by different organisations. They are : (i) the IENS rules governing accreditation of advertising agencies, (ii) the Code of Standards of advertising Practice of the Advertising Agencies Association of India, and (iii) the Code of Ethics for Advertising in India of the Advertising Council of India (Appendix IX. 18).

93. Only the first two codes are in operation at present. According to the Indian Society of Advertisers Limited, Bombay, the Advertising Council of India is at present inoperative and is being reconstituted. The Code of Ethics drafted by the Council in 1960 is being redrafted.

94. The Advertising Agencies Association of India also informed the Commission that a more detailed Code, with a provision for enforcement, is under preparation.

95. The IENS Code was scrutinised *suo motu* by the Monopolies and Restrictive Trade Practices Commission in December 1978. The Commission was particularly interested in examining whether retention of 15 per cent commission by an advertising agency was a restrictive trade practice. The IENS Regulations and the Code of Ethics were upheld by the Commission on 20th December 1978 with the following observation :

"In the result, the Commission not only does not feel any necessity to interfere with any of the Regulations etc. of the IENS and the IENS PLAN but, on the contrary, the Commission feels that the Regulations etc. might in the future context of the proposed legislative reform for effecting greater consumer protection including truth in advertisement, as an important strategy in the warfare against exploitation of the interest of the consumer, would in fact be actually served by regulations like the IENS PLAN. More of this, however, when we have to deal actually with such cases in the future, in the eventuality of the proposed legislative changes being made in this regard."



96. The Code of Standards of Advertising Practice of the Advertising Agencies Association of India lays down that advertising should be so designed as to conform not only to the law but also to the moral and aesthetic sentiments of the people. According to the Code, advertisements should tell the truth and shun distortion of facts; they should not mislead by omitting facts or by giving rise to wrong implications. However, we came across instances indicating that these rules are more often breached than followed. This trend was observed not only in glossy magazines but also in some reputed dailies which carried advertisements designed to blatantly exploit sex appeal to catch the attention of the readers.

97. All the three codes have some mechanism for enforcement of their provisions; but the enforcement machinery consists only of the representatives of the Press, the advertisers and the advertising agencies. The consumers who are the target audience of the advertisers are not represented on them. The Sachar Committee which went into the question of strengthening the MRTP Act recommended in 1978 that in order to protect the consumers from misleading advertisements, the scope of the MRTP Act should be extended to such advertisements.

98. We are of the view that while the MRTP Commission should go into the question of unfair trade practices, it is for the Press Council to oversee the observance of ethics of advertising by the Press.

### CAPITAL REQUIREMENTS

99. We made an analysis of the gross and net block of capital in relation to annual circulation of daily newspapers on the basis of the financial data sent by 50 newspaper undertakings in response to the summons issued to them. The circulation of periodicals published by these undertakings was not taken into account.

#### *Difficulties in measuring capitalisation*

100. There were some problems in using the gross or net block for measuring the extent of capitalisation. 'Gross block' indicates the aggregate of the original value of different items of plant, machinery and building as and when they are installed or built at different points of time. According to this concept, different items are valued at prices prevailing at different points of time. Conceptually, it would be appropriate to value different items at prices prevailing at the same point of time, so that capitalisation taking place at different points of time can be reduced to a comparable basis. But this adjustment was not possible on the basis of the data which were available to us.

101. 'Net block' indicates the current book value of the gross block after deducting the accumulated depreciation. The accumulated depreciation is for the period from the date of purchase up to the date of evaluation in respect of each item of plant, machinery or building. The problem of the basis of valuation mentioned in connection with the gross

block also applies to the net block. An additional problem relates to the arbitrary basis on which depreciation is computed. For one thing, depreciation is calculated by using the accounting concept. This does not bear any actual relation to the economic concept which is expected to take care of any wear and tear in an item of fixed capital when it is being used and which would result in reduction in its productivity. The arbitrary accounting concept is further distorted by the accelerated depreciation allowances that are permitted for tax deduction purposes in order to encourage capital formation. An economist, who analysed the data for the Commission, said: "The net block concept may give a relatively more distorted idea of capitalisation than the gross block concept. The gross block concept is, therefore, generally preferred as a broad indicator of capitalisation."

#### *Capital investment in the Press*

102. Out of the 50 newspaper establishments supplying data on capital investment, 37 provided information relating to the value of their gross block as well as net block, and 11 gave information only of their net block. Both the concepts are taken to exclude investments outside the newspaper business. The gross block of the 37 establishments totalled Rs. 43.65 crores. The net block of the 48 newspaper establishments totalled Rs. 22.33 crores.

103. The 37 newspaper undertakings which provided the gross block data accounted for 51 per cent of the total circulation of dailies in the country in 1978 estimated on the basis of the Reports of the Press Registrar. The 48 establishments providing the net block figures accounted for 54.36 per cent of the total circulation of dailies.

104. By working out the gross block figures in respect of the newspaper establishments accounting for 49 per cent of circulation of dailies in the country on the basis of the gross block figures available with us in respect of newspaper establishments accounting for 51 per cent of the total circulation of dailies in the country, we arrived at a rough estimate of the capital investment in the newspaper industry in terms of the original value of different items of plant, buildings and machinery at Rs. 85.59 crores in 1977-78. Similarly, we arrived at a rough estimate of the net block of all newspaper establishments publishing dailies in the country during 1977-78 at Rs. 41.08 crores. It should, however, be kept in mind that while the newspaper undertakings whose revenue and expenditure data have been analysed are fairly representative of the bigger establishments but not of small and medium establishments. Of the 50 undertakings in respect of which data were analysed, 31 were publishing one or more dailies with a combined circulation of more than 50,000, 10 were publishing dailies with a combined circulation in the range of 15,000—50,000 while nine were publishing dailies with a combined circulation of less than 15,000. Of the 37 newspaper undertakings supplying the gross block data, 26 brought out big, seven medium and four small dailies. Appendix

IX.19 contains the data in respect of gross block and net block of newspaper undertakings covered in the analysis.

#### *Capital investment and circulation*

105. The distribution of these establishments according to the capitalisation per unit of annual circulation is presented in the following Table :

**FREQUENCY DISTRIBUTION OF NEWSPAPER ESTABLISHMENTS ACCORDING TO THE CAPITALISATION-PER UNIT (COPY) OF ANNUAL CIRCULATION**

Range of capitalisation per unit of annual circulation (in Rs. 1000)	No. of establishments in the range, using the Gross Block concept	No. of establishments in the range using the net Block concept
1	2	3
20 and above	12 (B=8, M=2, S=2)	9 (B=6, M=1, S=2)
15 to 20	3 (B=2, M=1)	1 (B=1)
10 to 15	15 (B=11, M=2, S=2)	4 (B=1, M=2, S=1)
7 to 10	2 (B=1)	6 (B=5, S=1)
5 to 7	1 (B=1)	4 (B=3, M=1)
4 to 5	Nil	5 (B=4, M=1)
3 to 4	Nil	6 (B=6)
2 to 3	1 (M=1)	5 (B=3, M=2)
1 to 2	2 (B=1, M=1)	
Less than 1	1 (B=1)	8 (B=2, M=3, S=3)
Total	37	48

Note : B=Big, M=Medium and S=Small

106. There are 12 establishments with gross block per unit of annual circulation exceeding Rs. 20,000. Another 15 are in the range of Rs. 10,000 to Rs. 15,000. Both these groups contain newspapers with very high as well as very low average circulation.

107. Of the 12 establishments with gross block exceeding Rs. 20,000 per unit of circulation, eight are big newspapers with daily circulations ranging between 59,000 and 2.39 lakhs and two each are medium and small papers. Eleven of the 15 undertakings with gross block ranging from Rs. 10,000 to Rs. 15,000 per unit of circulation are in the big category. They publish newspapers with a much wider range of average daily circulation of between 54,000 and 4.57 lakhs. Two each belong to the category of small and medium newspapers. On the whole, 21 out of the 26 big newspapers covered in the analysis had a capitalisation exceeding Rs. 10,000 per unit of annual circulation.

108. While very few small and medium newspaper establishments are covered, a point to note is that all the four reporting small undertakings have the same order of capitalisation (gross block) per unit of annual circulation as the big ones.

109. Eight of the establishments covered in the analysis combine publication of news and non-news interest papers. Seven of them had a capitalisation exceeding Rs. 10,000 per unit of annual circulation.

110. The findings indicate that for the big newspapers, the extent of capitalisation does not go down very significantly either with rise in the average daily circulation or even when the establishments combine publication of news and non-news interest papers. Small newspapers with the same degree of capitalisation as the big newspapers may be experiencing diseconomies of scale as their scale of operation is too low to be able to compete economically with the big ones.

111. Using the net block as a measure of capitalisation, the big as well as small and medium newspapers appear to be fairly evenly distributed across a wide range of net block (excluding outside investments) per unit of annual circulation. This could be a combined effect of the arbitrary procedures of computing depreciation and the differences in the starting dates of different establishments.

#### *Gross block and profits*

112. Relating the surplus or deficit to the gross block, the 26 big undertakings for which this information was available had a surplus of 46.74 per cent of the gross block on an average in 1977-78. Seven medium undertakings had a deficit of 2.90 per cent of their gross block. The four small undertakings which submitted the data had a deficit of 0.20 per cent.

113. There is a big variation in the surplus/deficit within the different categories. With a gross block of Rs. 615.08 lakhs, Bennet, Coleman & Company Limited, Bombay, was having a surplus of Rs. 1,170.37 lakhs or 190.28 per cent of the gross block. Indian Express Newspapers (B) Ltd., Bombay, which had a gross block of Rs. 754.88 lakhs, had a surplus of Rs. 74.56 lakhs, 9.88 per cent of the gross block.

114. With a gross block of Rs. 179.14 lakhs, Indian Express (M) Limited, Madras, had a surplus of Rs. 274.58 lakhs or 153.28 per cent of the gross block. The Tribune Trust which had a gross block of Rs. 163.73 lakhs, had a surplus of only Rs. 31.66 lakhs or 19.34 per cent of the gross block. Appendix IX.20 brings out the ratio between the gross block and surplus/deficit in the case of 37 companies for which we could secure this information.

#### **NEWSPRINT**

115. Accounting for more than 50 per cent of the cost of production, newsprint is the most crucial input for daily newspapers. The paper on which a newspaper is printed has to be cheap but need not be of high quality or durability as newspapers have a short life. Newsprint is made from the cheapest grade of

pulp. The pulp consists mainly of mechanically ground wood. Chemical pulp is added to the wood pulp in a quantity sufficient to give the paper the strength required to stand the strain of high-speed printing presses. Newsprint is composed of 75 to 85 per cent of mechanical wood pulp and 15 to 25 per cent of chemical pulp.

116. Newspapers can use white printing paper but it is more costly and is generally not suitable for high-speed printing. Its availability has also varied from time to time.

117. The share of newsprint in the production cost of newspapers, as we have seen in the analysis of the revenue and expenditure data of newspapers, has increased progressively over the years. The reason for this is the increase in newsprint prices. While the consumption of newsprint is going up, there is a world-wide shortage of newsprint.

#### *Increase in prices and consumption*

118. There has been a five-fold increase in the consumption of newsprint in India in the last two and a half decades. From 77,872 tonnes in 1957-58, the availability of newsprint, both domestic and imported, went up to 3,70,000 tonnes in 1980-81. Appendix IX.21 gives the availability of newsprint in India from 1957-58 to 1980-81 and also the estimated supplies in 1981-82. The only factory producing newsprint in India at present is the National Newsprint and Paper Mills Ltd. (NEPA Mills) at Nepanagar in Madhya Pradesh. Indigenous production accounts for only about one-eighth of the total requirements. The rest has to be imported.

119. The prices of both domestic and imported newsprint have been going up over the years. The First Press Commission noted that, in 1953, imported newsprint cost Rs. 735 a tonne. At that time, newsprint was not being manufactured within the country. There was no change in the price of imported newsprint up to 1963-64, the price quoted in that year being Rs. 734 per tonne. But after that, the prices started rising and in 1971-72, the newsprint imported from the Soviet Union and other East European countries, Canada and Scandinavia cost between Rs. 1320 and Rs. 1365 a tonne. The succeeding decade witnessed a steep rise in newsprint prices in the world markets. The high sea sale price of imported newsprint rose to Rs. 5425 a tonne in July—September 1981, an increase of 56.34 per cent over the prevailing rate of Rs. 3470 a tonne during the quarter January—March 1979. Apart from this, an Import Duty ranging from five per cent in the case of medium newspapers was imposed during the financial year 1981-82. Some petitions challenging the validity of the levy filed by newspaper establishments are pending in the courts.

120. The price of newsprint produced in the NEPA factory which has been less than the price of imported newsprint has also been going up over the years. From Rs. 2770 a tonne in 1978-79, the price of NEPA newsprint went up to Rs. 3886 per tonne in October 1980 and to Rs. 4700 per tonne in July 1981.

121. While increase in the price of newsprint is the major factor responsible for the hike in the share of newsprint in the cost of production, another reason for this has been the increase in average number of pages of the bigger newspapers. While the average page level of dailies (of each category separately as well as on the whole) came down between 1970 and 1979 (*vide* Appendix IX.22), the number of pages of the bigger dailies, especially those in the English language, went up substantially. According to the Reports of the Press Registrar; the average number of pages of *Times of India* (Bombay) went up from 13.86 in 1975 to 18.21 in 1979. The page level of *Hindu* went up from 14.02 to 17.48; of the *Hindustan Times* from 11.67 to 14.87; and of the *Statesman* (Calcutta) from 9.87 to 14.17 pages during this period.

122. In 1979, 17 English dailies were allocated 69,231 tonnes of newsprint which was 20.19 per cent of the total allocation of newsprint by the Press Registrar. The *Hindustan Times* (New Delhi) which is the largest circulated single-edition English daily with a circulation of 2,68,871 was allocated about 11,019 tonnes of newsprint while *Ananda Bazar Patrika* (Calcutta), the largest circulated single-edition daily in any language in the country, with a circulation of 4,01,485, was allocated only about 7702 tonnes. The *Times of India* (Bombay), with a circulation of 2,39,124 got 9514 tonnes of newsprint while *Lok Satta*, a Marathi daily of Bombay, which had a circulation of nearly 7,000 more than *Times of India* (Bombay), got only 6283 tonnes of newsprint.

#### *Domestic production*

123. The NEPA newsprint factory in Madhya Pradesh started production on a commercial scale in 1956-57. Its teething difficulties persisted for a long time and its output did not reach 30,000 tonnes till 1963-64. The increase in production continued to be slow and reached 40,000 tonnes only in 1971-72.

124. The factory was expanded in 1964 and its installed capacity raised to 75,000 tonnes. However, as matching pulp capacity was not provided, its rated capacity has been only 60,000 tonnes and even this rated capacity has seldom been reached owing to shortage of power. The actual production achieved by the factory in recent years has been of the order of 48,000 tonnes.

125. In terms of quality, NEPA newsprint, which is based on hard wood, is inferior to imported newsprint made of pulp derived from soft wood. Several representatives of newspapers told us that due to its higher grammage the per-page-cost of NEPA newsprint was more than that of the higher-priced imported newsprint.

126. An official of the Ministry of Industry told us that steps had been taken to increase the pulp capacity of the NEPA plant and that its production was likely to be 60,000 tonnes in 1981-82.

127. Two more newsprint plants are coming up in the country. The Mysore Paper Mills at Bhadravati (a joint Sector project in which the State Government holds 65.5 per cent shares) in Karnataka with a capacity of 75,000 tonnes has started trial production and is expected to begin commercial production in 1982-83. A unit of Hindustan Paper Corporation in Kerala with a capacity of 80,000 tonnes is due to start commercial production in 1982. The total newsprint production capacity in the country will thus go up to 2,20,000 tonnes a year.

128. The main constraint in the way of increased newsprint production is the lack of suitable raw materials. The NEPA factory is utilising bamboo and salai, a locally available hard type of wood. The Karnataka plant will utilise eucalyptus and reeds. The Kerala Project which has imported about 10,000 tonnes of pulp for initial trials will use eucalyptus and *eta* reeds.

129. The Tamil Nadu Government has plans for setting up a plant using *bagasse* (sugarcane refuse) as raw material following the process evolved by Mexican scientists for manufacture of newsprint from *bagasse*. Since sugar mills use *bagasse* as fuel, the Tamil Nadu Government has entered into an agreement with 12 sugar mills guaranteeing them supply of coal in return for *bagasse*. If this experiment proves successful, Uttar Pradesh and Bihar may follow. Experts claim that every six tonnes of *bagasse* can produce one tonne of newsprint. It is estimated that 10 lakh tonnes of paper can be produced in the country every year out of *bagasse* which at present is being burnt as fuel by the sugar mills. If a way is found to provide alternative fuel to the sugar mills, the shortage of newsprint and other types of paper in the country could not only be overcome but there may even be a surplus. Paper mills using *bagasse* as raw material at least to the extent of 75 per cent have been totally exempted from payment of excise duty.

130. All the projects mentioned above are solely in the public sector. At the beginning of the sixties, two business groups had obtained licences to establish newsprint manufacturing units. We were told that the projects did not materialise because the Government insisted that it should have the authority to fix the price of newsprint that would be produced. Since the price fixed by the Government for NEPA newsprint was considered uneconomic by the private investors they did not proceed further in the matter.

131. Although the newsprint supply position will improve to some extent when the projects on which work is now in progress go into production in 1982 the dependence on imports will continue unless *bagasse* or some other easily procurable raw material could be used for producing newsprint on an extensive scale.

132. Concerted and co-ordinated efforts are needed to find and develop an easily procurable raw material. Research is being carried on in the United States on the suitability of using *Kenaf* (Kesta) in the manufacture of newsprint which is of particular relevance

and advantage to us. It is reported that *Kenaf* is not a stranger to India and that our climatic conditions are possibly more suited to its growth than that of the United States. It has been claimed that *Kenaf* grows to its full height in 120 days yielding about 22 tonnes of crop per hectare. It is said that even if the crop management is poor, the yield would not be less than 15 tonnes per hectare and as two crops could be raised in a year in our climatic conditions the annual yield per hectare would be not less than 30 tonnes—an yield which cannot be derived even from a well-planned thick forest. A report on the *Kenaf* project in the United States published in an Indian research journal is given in Appendix IX.23.

#### Allocation of newsprint

133. Allocation of newsprint is one of the non-statutory functions performed by the Press Registrar. The allocation is made to a newspaper on the basis of its actual consumption of newsprint in the previous year. The factors which go into the calculation of actual consumption are : (a) circulation, (b) size, (c) number of pages and (d) periodicity and regularity of publication.

134. The policy of newsprint allocation has varied from year to year. A summary of the salient points of the policy laid down in different years is given in Appendix IX.24. Only a small proportion of the newspapers registered with the Press Registrar obtain allocation of newsprint. In 1979-80, out of 17,168 newspapers registered with the Press Registrar, only 2039 actually obtained allocation of newsprint. Five hundred and eighty two of these were dailies, 14 were tri/bi weeklies and 606 were weeklies. The remaining 837 newspapers were of other periodicities.

135. Dailies which are the largest consumers of newsprint were allocated 2,76,810 tonnes out of a total of 3,42,810 tonnes of newsprint in 1979-80. They were followed by weeklies with an allocation of 47,927 tonnes and monthlies with 12,826 tonnes.

136. Out of the 2,76,810 tonnes of newsprint allocated to 582 dailies, 64 big dailies obtained 1,88,215 tonnes; 125 medium dailies 65,857 tonnes; and 393 small dailies 22,738 tonnes.

137. No minimum amount of quota has been fixed for the purpose of allocation of newsprint. In 1979-80, the smallest amount allocated to a newspaper was 0.13 tonne.

#### Eligible categories

138. The newsprint policy for 1981-82 makes only dailies and periodicals—and not books, as in some earlier years—eligible for allotment after excluding the following categories :

- (i) Journals published primarily to promote sale of goods or services ;
- (ii) House journals/magazines brought out by undertakings/firms/industrial concerns ;

- (iii) Price lists, catalogues and lottery news ;
- (iv) Publications intended for free distribution ;
- (v) Fiction ;
- (vi) Racing guides ;
- (vii) School/college magazines ;
- (viii) Newspapers/periodicals with regularity of less than 50 per cent in a year.

139. Magazines devoted to sports, films and entertainment are at present entitled to allocation of newsprint. One view expressed before us was that it was improper to allot scarce and imported newsprint to such journals and that it should be allotted only to newspapers which primarily carry news and comments on political, economic and social issues. We are of the view that while specialised journals and sports journals should continue to get newsprint, cinema and sex magazines should not. The Press Registrar should determine whether a publication is a sex magazine or not. (Appendix IX.25 gives data on the quantity of newsprint allotted to some of the prominent sex magazines). Sarvashri Girilal Jain, Rajendra Mathur, H. K. Paranjape and S. K. Mukherjee have reservations about this.

#### *Newsprint for new papers*

140. New publications are at present allowed an initial quota for the first four months of their publication on the basis of their average circulation upto a maximum of 10,000 copies of eight standard pages in the case of dailies and 16 standard pages in the case of periodicals. The application for newsprint is required to be accompanied by a bond executed by the applicant and guaranteed by a scheduled bank for 20 per cent of the value of the initial newsprint quota. The bond is cancelled on the production of documentary evidence to the satisfaction of the Press Registrar, showing that the newsprint was utilised for the publication of the newspaper. After three months of regular publication, the newspaper has to produce satisfactory evidence of proper utilisation of newsprint initially allocated to it, for getting the balance of the entitlement.

141. The requirement of bank guarantee for allocation of newsprint to new publications was introduced for the first time in 1980-81. The bank guarantee requirement which was 10 per cent of the value of newsprint in 1980-81 has now been raised to 20 per cent.

142. We would like the present system of allocation of newsprint to new newspapers to continue with the modification that if a new newspaper wants to start with a circulation higher than 10,000 copies—which is the present limit—it should be permitted to do so provided the newspaper is in a position to furnish satisfactory evidence of its capacity in this behalf to the Press Registrar. Dr. H. K. Paranjape does not approve of the present system of newsprint import and allocation.

#### *Regularity of publication*

143. At present newspapers with a regularity of less than 50 per cent in a year are excluded from allocation of newsprint. It was strongly emphasised before us that there should be some mechanism to weed out spurious publications which do not come out regularly. We are of the view that the requirement of regularity should be increased from the present 50 to 90 per cent in the case of dailies and two-thirds in the case of weeklies and other periodicals. However, allowance should be made for failure to publish on account of strikes/lock-outs, prolonged power cuts or other circumstances beyond the control of the publisher.

144. We also considered the suggestion of some witnesses that a requirement of a minimum number of pages with a minimum print area should be laid down for allotment of newsprint with a view to curb the claim of spurious publications and rejected it for the reason that a publisher should be free to bring out a newspaper in any format chosen by him. We also thought that it might be unconstitutional to lay down such a requirement.

#### *Circulation and page level*

145. The newsprint allocation policy during the earlier years permitted a specified increase over newsprint consumption during the previous year. The policy for 1972-73 made allowance for newsprint consumption only to the extent of 10 pages per issue of a daily newspaper. This limitation as well as the differential growth rates allowed for different categories of newspapers were struck down by the Supreme Court in *Bennett, Coleman and Co. v. Union*. The policy for subsequent years allowed a uniform growth rate for all categories of newspapers.

146. A need based policy of newsprint allocation was introduced in 1977-78 which provided for a uniform growth rate in the case of all categories of newspapers, and also allowed them to apply, twice during a year, for allotment of additional quota based on actual consumption of newsprint. This liberalised policy was continued during 1979-80.

147. The policy for 1980-81 provided for a percentage increase in entitlement to the percentage increase in circulation in the year 1979 over that of 1978, subject to a maximum of five per cent in the case of big, 10 per cent in the case of medium and 15 per cent in the case of small newspapers. However, under this policy, newspapers could apply once during the year for revision of allotment on the basis of actual consumption.

148. The policy for 1981-82 marks a departure from the liberalised policy to the extent that it is based on the average number of pages published in 1979, except that in the case of a daily which increased the number of its pages upto a maximum of eight in 1980 (in which case the average number of pages in 1980 would be taken into account). The policy provides for an increase over the basic entitlement, on application, of

five per cent in the case of big newspapers and seven per cent or the actual percentage increase in circulation between 1979 and 1980, whichever is more, in the case of medium and small newspapers. It also provides for upward revision once during the year on the basis of actual increase in circulation.

149. The limiting of the number of pages to the 1979 level for the purpose of allocation of newsprint is designed to conserve newsprint. In the evidence tendered to us different views were expressed on ways to conserve newsprint. One idea was to offer newsprint at the normal rate for consumption up to a prescribed page level and to charge progressively higher prices for increased consumption arising out of increase in the number of pages beyond the prescribed limit. This was on the analogy of sugar, a specified quantity of which is available from Fair Price Shops at a controlled price, with consumers having to pay more at the open market for any additional quantity required by them. The higher pricing could be through the device of a duty on newsprint imports, with exemption for consumption up to a prescribed page level. In fact a Customs duty of 2.5 per cent had been levied on newsprint in 1971-72 which was withdrawn in July 1977. The Central Budget for 1981-82 has once again imposed an import duty on newsprint which operates at five per cent in the case of medium newspapers and 15 per cent in the case of big newspapers. But the duty is not related to the page level of newspapers. The small papers have been totally exempted from the operation of this duty.

150. Another idea suggested for conserving newsprint was the levy of an excise duty on copies of newspapers which would have the merit of checking claims of inflated circulation leading to unwarranted allocation and ultimate misuse of newsprint. It was pointed out that when an excise duty on newspaper copies is levied, the newspapers claiming inflated circulation would either have to disclose their true circulation or pay out of their pockets for the bogus part of the claimed circulation.

151. Yet another idea was that there could be a tax on advertisements which would hit not the reading matter but the space devoted to advertisements. The levy of such a tax, it was urged, would reduce the wasteful part of the purchase of advertising space both by private sector enterprises and by governments and public sector undertakings.

152. It was also urged before us that unlike the customs duty with its indirect effect on newsprint consumption, which was not capable of being precisely estimated in advance, a better method of conserving foreign exchange would be to reduce the financial allocation for import of newsprint, and to impose corresponding cuts on the quantities allotted to newspapers. This method of conserving foreign exchange has been upheld by the Supreme Court.

153. On the question of optimum number of pages of a daily newspaper, one line of thought presented

before us was that, in the present conditions, at least six or seven pages of reading matter was required for adequate coverage of local, national and international news and that since nearly as much space had to be devoted to advertisements for economic reasons, pegging the number of pages at about 12 would be reasonable. On the other hand, representatives of small and medium newspapers were of the view that the maximum number of pages of a daily newspaper should be eight in the present conditions. They pointed out that at present there were only about 40 newspapers in the country with a page-level of more than eight pages and they consumed the bulk of newsprint. Another view was that there could be no optimum size of a daily newspaper as it depended on what the readers were looking for and that there ought to be daily newspapers of different types and sizes to cater to different kinds of readers. According to this view there was nothing wrong in big newspapers consuming the bulk of newsprint as the real consumers of newsprint were their readers. One witness suggested decontrol of newsprint and its import under Open General Licence subject to overall ceilings on the ground that it would not lead to any sizeable increase in the total demand of newsprint.

154. In our discussions it was generally recognised that in a situation where only a limited amount of foreign exchange could be allocated for import of newsprint, some ways of discouraging misuse or wastage of newsprint had to be found. But it was also recognised that though newsprint was scarce, it was used by an industry which was in the nature of a public utility. Newspapers play an important role in educating the people by providing the raw material for thought. Cutting down newsprint imports would not be proper as it is not a large drain on foreign exchange resources—an estimated 1.3 per cent of the value of total imports in 1980-81—(Appendix IX.26). We recommend that as far as possible a liberal allocation of foreign exchange should be made for newsprint imports to meet the demand of a readership that is growing steadily on account of the increase in population, literacy and purchasing power.

155. On the question of advertisements accounting for a large part of newsprint utilisation there was general agreement among us that some ways had to be devised to discourage the use of newsprint for publication of image building and other wasteful advertisements. It was recognised that classified advertisements relating to employment, matrimony, housing and the like serve a useful function, but a considerable part of display advertising was prodigal and had to be curtailed.

156. Keeping the above considerations in mind, we recommend that newspapers should be allowed newsprint free of import/exercise duty up to the level of 12 pages. Above that level as long as the newsprint availability position continues to be difficult, there should be a progressively increasing rate of duty so that the tendency to increase the number of pages to accommodate more and more advertisements with a view to



earn higher profits is rendered uneconomical. Government should work out the rates of duty above the page level of 12 pages from time to time in accordance with the prevailing circumstances.

157. S/Shri Girilal Jain, Rajendra Mathur, S. K. Mukherjea and H. K. Paranjape do not agree with the above recommendation.

158. We do not favour the levy of excise duty on the finished product, namely copies of newspapers. At the time of the Indo-Pakistan conflict of 1971, an excise duty of two paise per copy was actually levied on newspapers. This was not challenged at the time as this would have meant hurting the patriotic sentiments in the country. In any case, it was a special situation. But in normal circumstances, apart from being liable to be construed as a tax on knowledge, it may lead to harassment of newspapers. It was alleged before us that a number of newspapers were harassed by Excise Inspectors at the time of the Indo-Pakistan conflict when the levy was in force. We also do not favour the proposal for differential pricing of newsprint on the basis of space devoted to advertisements, as it would be difficult to compute.

#### *Agency for import of newsprint*

159. Noting that free import of newsprint would favour only the larger newspapers, the First Press Commission had recommended in 1954 that there should be a State agency for the entire newsprint trade. It observed: "It might be of advantage if a State Trading Corporation takes up the entire output of the mills, on a fair basis, and sold it along with imported newsprint at equated prices. . . The trading organisation would have to be in the form of a public corporation with a Board of Directors which includes representatives of the publishing world who can provide expert knowledge of the requirements of the Press and of the sources of supply abroad".

160. Following the recommendation, newsprint was removed from the Open General Licence (OGL) in June 1955. Importers were required to obtain a licence from the Chief Controller of Imports and Exports (CCIE). In 1958, the State Trading Corporation entered the newsprint market and started making bulk contracts with overseas suppliers. CCIE continued to issue licences directly to the newspapers but the latter were required to get their supplies against the STC contracts. In April 1974, newsprint imports were entirely channelised through STC. The Newsprint Purchase Committee consisting of representatives of the Government, the Press Registrar and newspaper organisations reviews the import requirements based on projections of indigenous supply and demand, and lays down general guidelines for negotiations with foreign suppliers.

161. CCIE issues licences in favour of STC based on allocations made to newspapers by the Press Registrar. STC enters into contracts with foreign firms and

arranges shipments. It charges average pooled price for the newsprint irrespective of the price paid to the supplier. This includes STC's service charges @ 1 per cent on the CIF cost. The pool price is fixed for each quarter of the year. Newsprint is delivered to the allottees either on high seas sale basis or from the buffer stocks of STC. At present, STC has newsprint depots at 12 places. These are : Bombay, Calcutta, Madras, Delhi, Kandla, Cochin, Ahmedabad, Jaipur, Bangalore, Hyderabad, Gauhati and Nagpur. Until July 1980, the high seas sale price was lower by Rs. 240 a tonne than the price of newsprint supplied from buffer stocks. Besides, newsprint sold from buffer stocks was liable to sales tax. The price differential between the high seas sale price and the buffer stocks price was reduced to Rs. 50 per tonne in July 1980.

162. Representatives of various categories of newspapers brought to our notice a number of defects in the system of newsprint channelisation through STC. They are summarised below :

- (i) Consignments come in uneven quantities, sometimes bunched together in a few weeks and with no supplies over several weeks;
- (ii) Working capital is eaten up by large bank deposits to back up letters of credit or bank guarantees for the bunched supplies;
- (iii) The financial burden is all the more heavy if shipping documents are presented to the importer's bank at short notice and for more than one shipment at a time;
- (iv) Delays in arrival are common—due to dislocation at the origin, congestion at ports, shortage of shipping space, customs slackness and so on. This means that after paying for a few months' stocks, the importer is forced to purchase his current requirements from STC's buffer stocks or from mills producing unbleached paper;
- (v) Internal transport is not easily arranged—due to heavy pressure on available carriers—and exorbitant charges have to be borne in addition to charges for insurance, clearing, forwarding and storage space;
- (vi) STC plays safe by pitching its provisional charges higher than the actuals and refunds take 12 to 18 months ;
- (vii) Forced to buy STC's buffer stocks, pending arrival of shipment, the consumer is often faced with piece-meal delivery from the STC's branch offices and at higher prices because of STC's departmental charge and quarterly revisions;
- (viii) Quota holders as well as small papers with quotas are forced to depend on open market sources of unbleached paper as a second line of support for upto a quarter of their requirements; and



- (ix) The above problems fall even more harshly on small newspapers because of STC's requirement of a minimum lot of 40 tonnes for high seas allocations and the high cost of supplies from its buffer stocks.

163. On the other hand, in a note to the Commission (Appendix IX.27), STC has stated that there are several advantages flowing from channelisation of newsprint. Some of these are :

- (i) As it buys in bulk, STC has been able to contract at very competitive prices. The sale price of newsprint is worked out on a pool pricing basis which benefits small newspapers;
- (ii) Most of the imported newsprint comes in Indian shipping lines and STC is able to get competitive freight rates which help to keep the prices low;
- (iii) STC has been able to eliminate private sector middlemen from the trade. If its role in newsprint imports is ended, small and medium newspapers will be hit;
- (iv) STC has been able to diversify the sources of supply to reduce dependence on particular foreign suppliers, obtain competitive prices and ensure a more regular flow; and
- (v) To help small consumers, STC maintains buffer stocks at a number of locations from where they can draw their newsprint allocation.

164. A number of alternatives were discussed by the Commission to overcome the present defects in the system of import of newsprint. It was urged on behalf of bigger newspapers, with offices abroad which can handle purchases, that they should be allowed to import newsprint directly. Representatives of small and medium papers pointed out that if permission for direct imports is given to big papers who use the bulk of the newsprint, only a small share of newsprint imports will be left with STC. In such a situation, it would not be able to negotiate competitive prices abroad. Small papers may also have cause for complaint that STC makes a profit from them while big papers do not have to pay any service charges to STC.

165. Another view was that there should be an element of competition. Big newspapers might be allowed to import newsprint directly while others which do not have contacts abroad can continue to get newsprint through STC or a co-operative. A variation of this idea was that big buyers may be allowed to import 50 per cent of their requirements directly and 50 per cent through STC.

166. In view of the dissatisfaction expressed by newspapers of all categories with STC's role, we recommend that newspapers of all circulation categories should come together to form a co-operative to handle newsprint imports. We are aware that co-operatives have not been an outstanding success in the country. But as newspaper publishers represent an enlightened section of the community, we hope that the idea will work out in practice.

167. Alternatively, while STC should continue to negotiate with newsprint suppliers abroad on the prices and quantities to be purchased, newspapers can be allowed to make arrangements for shipping the newsprint, if they so desire. We are aware that such an arrangement may lead to higher costs for small and medium newspapers on the shipping and handling of smaller quantities, as, in practice, only big newspapers would be able to make their own arrangements. For overcoming this disadvantage, we suggest that the Newspaper Development Commission, which we have proposed in an earlier chapter, should subsidise the extra cost. There could also be grouping of small newspapers with some big newspapers for the purpose of import of newsprint with the knowledge and consent of the authorities. If a small paper wants to use the agency of a big paper for the import of newsprint, it should be allowed.

#### *Newsprint Wastage*

168. A number of witnesses told us that part of the newsprint supplied to newspapers is now being sold as waste because of the high recovery price of waste newsprint and unsold copies of newspapers.

169. This phenomenon had been noticed by FFCNE also. It had observed : "There is a difference of opinion between the publishers and the Registrar of Newspapers regarding the wastage margin that should be allowed to newspapers while allocating newsprint quota. The problem has become accentuated because of the high recovery price of waste newsprint as well as of unsold copies of newspapers. Any provision for a degree of waste which is larger than the actual waste is bound to be a source of profit to some persons and it is essential to be strict in regard to the permissible allowance in all such cases".

170. Allegations were made before the Commission that a number of newspapers belonging to all categories—big, medium and small—divert part of their newsprint supplies to the black market, or a portion of the printed copies to the waste paper market. There is need for strict checks to ensure that newsprint is not misused.

171. Up to last year the margin of wastage allowed while allocating newsprint used to be eight per cent for newspapers published from port towns, nine per cent in States where ports are located and 10 per cent elsewhere. The current year's policy provides for a uniform five per cent wastage allowance all over the country.

172. Abolition of the differential is defended by the Press Registrar on the ground that STC is opening more and more depots. But this does not solve the problem of newspapers published in dozens of centres where STC is unlikely to open a depot in the foreseeable future. It has also to be kept in mind that wastage goes up with increase in the number of times newsprint is handled during transportation. Wastage in inland and remote areas will consequently be more than the wastage in port towns or areas near newsprint mills. We are of the view that there should be a differential in wastage margin based on the distance from port towns and newsprint factories.

173. The rate of wastage in India is high when compared with the rate of wastage in West European countries where it generally does not exceed one to 1.5 per cent. One of the reasons for more wastage in India is inefficient and careless handling at the time of unloading from ships and loading on goods trains. Fork lifts are used in most other countries for handling newsprint. In India, while some ports have fork lifts, hooks are generally used to handle newsprint at railway stations and also in printing presses. Wastage also goes up because newspapers in the small and medium category use a wide variety of printing machines. In several cases, the newsprint coming in rolls has to be cut into sheets before printing. Standardisation of printing machinery and newsprint may help in reducing wastage and we would like the Indian Standards Institution to consider laying down standards for printing machinery and newsprint.

### COMPOSING AND PRINTING

174. Accounting for the greater part of the capital investment needed by newspapers, composing and printing equipment form the most important physical input in the production of a newspaper.

#### *Printing machines in use in India*

175. The First Press Commission identified three makes of mechanical composing machines used by newspapers in the country. Two of these were for line composing and the other was mono. The Commission observed that line composing was less popular with Indian language newspapers as the number of characters which could be handled by them was much less than that handled by mono machines. The country's annual demand for mechanical type setting machines was about 50 at the time, all of which were imported.

176. As regards printing machinery the Commission noted that there were three power-operated types in use by newspapers - platen, cylinder and rotary (apart from the manually operated treadle and litho machines). Only some of the platen and flat-bed cylinder machines were being manufactured in India. It was estimated that there were about 100 rotary presses in India at that time while the annual demand for new machines was six. The cost of an imported rotary machine was around Rs. 2.5 lakhs.

177. The position with regard to indigenous manufacture of composing machines has not changed over the last quarter century. Mono and lino machines continue to be imported. Among printing machines, offset machines (including web offset units using paper rolls) have begun to be manufactured within the country, though they do not have the same capacity as high-speed offset machines which, like rotary printing machines, continue to be imported.

178. In 1976, according to a survey conducted by the Operations Research Group of Baroda, there were 118 printing presses in which at least one major newspaper or periodical was being printed. Major publications totalling in all 300 were being printed in these presses. Employees numbered 23,000 constituting 4.5 per cent of the total staff employed by printing presses in the country. On an average, a press had 122 employees, 71 of them belonging to the technical category. The gross average investment per press printing a major newspaper or periodical was Rs. 16.3 lakhs. Appendix IX.28 gives a summary of the findings of the survey.

179. The Press Registrar's report for 1979 says that out of the 488 dailies for which information was available, 327 had their own presses. Of these, 107 were rotary, 85 cylinder, 88 treadle and 13 litho machines. Out of the 39 big newspapers which furnished the information, 36 had rotary, two a combination of rotary and offset and one an offset press. In the case of medium newspapers, 45 out of 52 had rotary machines and three offset machines. Almost all the cylinder (84 out of 85), treadle (87 out of 88) and litho (12 out of 13) printing presses belonged to small dailies. Seven of the small papers possessed offset machines and 13 had a combination of offset and other types.

180. In 1979, 392 dailies (40 big, 61 medium and 291 small) had their own composing arrangements. Of the 40 big dailies, two had mono composing, three lino, two inter-type while another four were hand-composed. While one daily was produced by calligraphy, most of the others had a variety of combinations of mono, lino, inter-type and hand-composing. The pattern was more or less the same for the 61 medium dailies except that more papers were hand-composed (16 out of 61). An overwhelming majority of the small dailies (216 out of 291) were hand-composed. Twenty of the 34 dailies using calligraphy belonged to the small category.

181. Only one daily (in the medium category) was using photo composing in 1979. According to information gathered later, 36 dailies/periodicals have started using photo composition.

#### *The New Technology*

182. In the more advanced countries, printing technology especially composition has been in a state of rapid development in recent years. Photo-composition and computerised type-setting are gradually pushing the traditional hot metal technology

out of the newspaper industry. The change-over to the new technology is virtually total in the United States. In other countries of the West and in Japan also, conventional methods have almost ceased to be used.

183. Photo-composing marked a break-through in newspaper composing technology. Functionally, photo composition is clean, quick, accurate and relatively inexpensive. Compared to this the hot metal process now seems cumbersome and unhygienic because of the lead fume.

184. In the traditional hot metal technology used by a newspaper, 'copy' is produced in the newsroom and the advertising department and is later given to lino or mono operators to set it in type using molten lead. The proof sheet taken from the lead type is corrected before the type is sent for page make-up. A matrix of the page is then prepared. Finally, a semi-cylindrical metal plate moulded from the matrix is fitted to the rotary for printing. In photo composition which is also called the cold type system as it has no use for molten lead, print images are photographically impressed on paper.

185. Computerised type setting marks a further advance in photo composition. A reporter or advertisement writer types out the copy which appears on a video screen. Corrections are carried out on the screen itself with the help of the key-board of the machine. Once the copy is prepared satisfactorily, it is transferred to the computer. It stores the copy electronically and carries out the instructions of the editor. The electronic impulses from the computer are transferred into a printed read-out of the original copy in column form. The printed copy is now cut and assembled and pasted on a page. A photograph is taken of the page paste-up. From this, a plate is prepared for printing. In the more advanced photo composition systems, the computer can prepare the entire page which can be taken directly to the camera room for photographing it and making a plate. Eventually, it is envisaged that the 'electronic pagination' equipment will be connected directly with the page plate-making equipment.

186. Unlike photocomposition and computerised type setting, the changes brought about in the technology of printing newspapers have been only marginal. Photo composition suits the offset printing process more than the letter press method. This has led to the manufacture of offset printing machines on a larger scale.

187. By the use of facsimile transmission systems, the entire contents of a newspaper composed at one centre can be transmitted to distant printing centres through telephone cables or through satellite. The *Hindu* is the only Indian newspaper to have utilised the facsimile system for distance printing.

188. Newspaper abroad have started using satellite transmission for bringing out the newspaper at far-flung

centres at the same time. The *International Herald Tribune*, using satellite transmission, is on sale in several countries in Asia the same day as in Europe and the United States. Copies are printed almost simultaneously in New York, Paris and Hongkong.

189. The conventional electro-mechanical teleprinter has gone out of use in the developed countries. Its place has been taken by electronic teleprinters. Electromechanical teleprinters are being replaced by electronic teleprinters in West Asian countries too.

190. The newspaper industry in India is affected by all these advances in technology developed abroad because almost the entire range of mono and lino composition machines as well as letter press rotaries used in the country are imported. The indigenous manufacture of printing presses is limited to a few platen and cylinder machines and the smaller type of offset machines. (Please see Appendix IX.29.) With the list of suppliers of the traditional composing and printing machines in the developed countries rapidly shrinking, the Indian newspaper industry is in a situation where it has to make a choice. Ways have to be found either to manufacture within the country machinery and spares needed for traditional ways of printing—which may prove to be an investment in obsolescence—or a change-over has to be made to the new technology with the aim of eventual self-reliance therein.

#### *Teleprinter Technology*

191. Hindustan Teleprinters Limited, a public sector undertaking, is the sole manufacturer of teleprinters (of the electro-mechanical type) in the country. The teleprinters being manufactured by the undertaking are in the Roman and Devanagari scripts. A Roman teleprinter costs about Rs. 11,500, while a Devanagari machine costs about 20 per cent more, apart from taxes. The major users are P & T, Defence commercial houses, airlines, meteorology department, etc. Newspapers and news agencies account for only a small part of the present annual demand of 10,000 teleprinters.

192. Hindustan Teleprinters plans to stop the manufacture of electro-mechanical teleprinters in about a couple of years and to shift to the faster and more efficient electronic teleprinters. An electronic teleprinter is expected to cost about Rs. 25,000.

193. On coming to know that Hindustan Teleprinters Limited was considering the acquisition of foreign know-how for the manufacture of electronic teleprinters, the Commission drew the attention of the Ministry of Communications to the desirability of acquiring know-how based on the eight-bit code, which is beginning to be standardised internationally, rather than the five-bit code now used which is adequate for English and other languages based on the Roman script but which has proved inadequate for Devanagari characters and for other Indian languages with phonetic scripts. With the eight-bit code, which can preserve the aesthetics and integrity of Indian scripts, it is

now possible to adopt foreign technology on our terms, culturally speaking. We also drew attention to the need for the use of a larger matrix to suit Indian scripts. The importance of these was stressed by us in the context of the need and likelihood of a rapid growth of Indian-language newspapers. In reply, we were informed that our suggestions would be put before a Committee that had been set up by the Ministry of Communications to finalise a key-board for electronic teleprinters that should, as far as possible, be capable of sending and receiving all the alphabets of the Devanagari script and of transcribing phonetic sounds of all India regional languages. (Appendix IX.30.)

194. We are of the view that while updating our teleprinter technology, the needs of various Indian languages and of the times to come should be kept in mind. Government should pay particular attention to this aspect as there is generally a resistance in bureaucratic circles to technological innovations.

#### *Photo composition and Indian languages*

195. The fact that each Indian language has a phonetic script unlike the Roman, carries with it some composing and printing problems peculiar to each. FFCNE had observed in 1975 that there were certain factors which tend to make the cost of composing Indian language papers higher than that of English language papers: "One is the comparatively lower output of the composing room staff. In the case of hand composing, the higher cost is due to the much larger number of characters a compositor has to use, and the time taken to compose a column is much more than in the case of English type setting. In the case of mechanical composition also, a similar disparity exists. The composing machines made in the West are designed primarily for composing in the Roman script and the same machines have been adopted for the various Indian languages, thus making the performance rather slow."

196. The Enquiry Committee on Small Newspapers (ECSN) in its Report in 1965 also referred to the problem of type faces. It said that research is called for and recommended that the development wing of the Ministry of Industry should examine the matter in consultation with printing interests.

197. It is now three decades since photo composition was first introduced in the world. During this time, the new technology has been developed for the Roman script upto almost its full capability. Even for the Arabic and Chinese languages, development of systems of photo composition has received due attention. But Indian scripts were almost ignored in this field until recently.

198. The Indian scripts are among the most phonetic among the world's scripts. They are very logical in composition and the electronic brain of the computer can be taught the rules of composition of Indian writing. In a note to the Commission, two experts of a graphic arts research centre have pointed out that

Indian scripts when they are used on typewriters and mono-line composing machines, have had to make some compromise. The note says "it is difficult for foreign manufacturers and their programmers to understand and apply the scientific logic underlying Indian scripts. The logical approach to designing a system for the scripts should be phonetic".

199. Manufacturers of printing equipment have programmed their machines for handling Devnagari and a few other scripts. But even for these, Visual Display Units and hard copy printers have yet to be provided. A research institute engaged in development of newspaper technology has played a pioneering role in developing photo composition processes suitable for Indian scripts. Design information for the Devnagari script was specially developed in 1980. As most North Indian scripts are similar in appearance as well as logic, the design can be applied almost directly to the entire Sanskrit group.

200. But the South Indian group of languages vary greatly in the logic, as well as rules of composition from languages appearing in northern India. The Institute in coordination with other organisations has lately developed photo composition processes suitable for Malayalam, Kannada and Telugu. Appendix IX.31 gives the background of development of photo composition processes for Indian languages.

201. For small and medium category Urdu newspapers, litho printing machines remain the only viable proposition. The cost of offset machines is beyond the reach of most small and medium Urdu newspapers. Litho machines are not being manufactured elsewhere in the world now and the machines available in India are more than 50 years old in some cases. Facilities for up-keep of existing litho machines are also not adequate. We recommend that the Government may consider this matter and take measures to meet the requirements of Urdu newspapers.

202. Another problem faced by Urdu newspapers is shortage of Katibs or calligraphists. There is little likelihood of Urdu newspapers being able to change over to the type system, mechanical or computerised, in the near future. Therefore, whatever be the system of printing, they will continue to need the services of Katibs. We recommend to the Government to look into this problem faced not only by Urdu newspapers but also by printers and publishers of Urdu books and to take suitable steps to provide facilities to train Katibs.

#### *Technology for different categories of newspapers*

203. We consulted eminent persons in the field of newspaper printing technology on the question of appropriate technologies for different categories of newspapers. A number of studies on the subject were also commissioned.

204. The general consensus of opinions expressed during the discussions as well as in the studies appears to be in favour of a change-over to the new technology

of photo composition and offset printing. This is particularly true in the case of the big and medium newspapers. In the case of small newspapers, however, there are some differences of opinion.

205. The production of the traditional hot metal composing and letter press printing equipment has almost been phased out abroad. Since these items of machinery are not produced in India, sooner or later, their supply will stop or will become prohibitively costly. The same applies to the availability of spare parts required for servicing the present equipment with the newspapers.

206. It has been argued that in financial terms, the capital needed to replace the old hot metal composing and printing machinery with photo composition equipment and offset presses may appear formidable, but in terms of likely replacement cost the prices are likely to be no higher. Thus, in the long run, investment on an electronic composition and offset printing system will be cheaper even if one does not take into account the improvement in the quality of the product and the environment of work—free or harmful lead fumes and noise—which is bound to come with the new system.

207. With regard to the small newspapers, one view is that the new technology can be tailored to the needs of these papers. It is said that for a small paper, the capital cost for a system of photo composition and offset printing would be slightly higher than a system consisting of hand composition and printing by hand fed cylinder presses, but considering the advantages of speed, efficiency, space required, manageability and the quality of the output, even the higher capital cost of the new system would be worthwhile.

208. The other view is that small newspapers, particularly those selling below 5,000 copies a day, would find it cheaper to have their copies produced from small offset printing presses using hand composition and hand-fed cylinder presses. According to this view, most of the small newspapers do not have sufficient funds to invest in the new technical facilities, and their capacity to earn revenue is also limited.

209. It is neither possible nor appropriate for us to prescribe any particular technology for different categories of newspapers because the requirements of each individual newspaper would be different. It is for each newspaper to decide which technology would suit its requirements best. However, it would be wrong to reject the new technology on the ground that such technology is costly and does not suit developing countries. In certain circumstances, the latest technology may be the most appropriate technology for certain operations in a developing country. Newspapers, particularly those which want to grow, should have an open mind and a progressive outlook while selecting the proper technology.

Two studies on printing technology are given in Appendices IX.32 and IX.33.

### *Impact on employment*

210. The advent of new technology had led to retrenchment of composing room and printing press workers to a substantial extent in western countries. According to the August 1981 issue of *Direct Line*, monthly journal of the International Federation of Journalists, the Greek Parliament has passed a law to help resolve social problems that could be created by the introduction of new technology in Greek newspapers. The law stipulates that typographers retiring because of the introduction of new technology would be entitled to full pensions. The money for this will come from the Pensions Fund of the typographers. The State as well as publishers and typographers will contribute to the fund. There will also be a three per cent cess on publicity from Radio and TV stations. Appendix IX.34 gives an extract from the journal giving the highlights of the Greek legislation.

211. In its interim report on the British newspaper industry, the third Royal Commission on the Press (1977) observed that one consequence of the new technology is that "many of the old composing functions can be eliminated by using journalists and workers in advertising departments rather than compositors, to key in the copy and to check it. It is also now possible to eliminate the compositor in processing material coming from the press agencies. Stories can be fed directly into computer, without the need to print them out first". In the estimates submitted by National newspapers to the Royal Commission on the Press, it was calculated that with the introduction of new technology, newspapers would be able to reduce employment in the composing room and associated areas by an average of 50 per cent.

212. This aspect has to be kept in mind while considering the introduction of the new technology in India. The Indian Federation of Working Journalists, in a note to the Commission (Appendix IX.35), stated that in the matter of technological development, appropriate technology should be deemed to be one that is labour-intensive rather than capital-intensive and which suits the stage of economic development of the country. Mentioning the case of a newspaper brought out from several centres in the South, the memorandum says that bringing out of facsimile editions by the newspapers has led to loss of potential employment for journalists as well as printing and other staff. It also says that "the evils of chain newspapers are aggravated by higher technology".

213. On the other hand, the Director of a research institute engaged in newspaper technology development, has said in a note to the Commission that the fear that the introduction of new technology may result in unemployment is based on basic misconceptions. The note says that the number of key-board operators required for photo type setting equipment would be practically the same as for line casting machines in a newspaper press. Page make-up would also remain practically the same as of now, except that instead of lead, paper would be used. The

note further says that it would be necessary to retrain the operators and that experience has proved that hot metal operators and those who work on page make-up by the conventional process can be retrained on photo type setting systems easily and within a short period.

### *Import of Printing Equipment*

214. Since the machinery for both the traditional hot metal and the new electronic technologies is not available in India, the question of importing these is vital for the newspaper industry.

215. The first Press Commission observed in 1954 that while domestic production should be encouraged so as to make the country self-sufficient in printing machinery, it would not be economical for an Indian manufacturer to start on the design of rotary machines because of the limited demand. In 1975, FFCNE reported that the import duty on printing machinery was exorbitant, and apart from this, newspapers experienced hardships due to restrictions on the import of certain essential spare parts. It went on to say, "In our opinion, the newspaper industry is a public service industry and should not be placed on par with other industries like cement, jute, etc. In view of the above considerations, we recommend that the import duty on composing and printing machinery should be as low as possible and should not in any case be higher than the original operative rate of 10 per cent *ad valorem*." The present level of duty on printing machinery is 30 per cent. Regarding the import of spares, it was stated by the Government in the Rajya Sabha in August 1978 that, "the case of printing machines is in no sense different from that of other types of machines where the question of spare parts is involved. Spare parts are already being allowed for all imported machinery in terms of fixed value related to the value of the machinery. ... No body can seriously suggest that such spare parts as can be produced in the country should necessarily be imported. Under the circumstances, no change in the existing system seems to be called for."

216. In a note given to the Commission, the Chief Controller of Imports and Exports has said that since 1979-80, imports of certain items of printing machinery, other than those banned, have been allowed under Open General Licence (OGL). Items under OGL include photo composing/type setting machines and ancillaries, high precision auto focus, auto exposure computerised process cameras, high speed letterpress and offset rotary printing machines and mechanical hot metal line casting/composing machines. Actual users can import these items without licence. The list of printing machinery items under OGL in 1981-82 is given in Appendix IX-36.

217. Some of the items which are made in India and are in the banned list are : Letterpress printing presses (platen type)—both treadle and power-operated—other than automatic hand-fed Letterpress Cylinder machines and automatic Letterpress Cylinder

machines. A list of the items in the banned list is given in Appendix IX-37.

218. Spares of printing machinery other than those appearing in the banned and restricted lists in the Import Policy can be imported under OGL by any person. Actual users can also import spares of printing machinery under OGL except those in the banned list or those specifically excluded.

219. Newspaper establishments are allowed to import even banned items if they give a certificate saying that they consumed these items during the previous year. Printing presses used for printing newspapers also get this facility.

220. For importing equipment not under OGL, a newspaper establishment has to first approach the Press Registrar who determines the essentiality for import. After that, the matter goes for clearance to the Directorate General of Technical Development (DGTD). If the application is cleared by DGTD, it comes up before a Capital Goods Committee. Capital Goods Committees function at three levels. The main Committee at the Centre handles applications involving imports worth more than Rs. 25 lakhs. An *ad hoc* Committee deals with matters involving Rs. 10 to 25 lakhs worth of imports. The Regional Level Committees handle applications for imports involving less than Rs. 10 lakhs. The Committees consider various matters including financing of the credit, whether the equipment is available in rupee trade areas and the MRTP angle. From rupee trade areas, imports are made directly by CCI&E.

221. If the Press Registrar refuses an essentiality certificate to a newspaper company, it can appeal against the decision to the Ministry of Information and Broadcasting. The Commission came across an allegation that the Government has been discriminating between different newspapers/undertakings in the matter of import of printing and other equipment. The Executive Editor of a leading group of newspapers said in evidence before the Commission that his group was not allowed to import facsimile equipment in 1969 while another newspaper was allowed to do so. He said import licences for the equipment granted initially to the group were cancelled by the Chief Controller of Imports and Exports. We requested CCI&E's Office to check the records and send us a note on the circumstances in which the licences were made inoperative but despite several reminders the information was not supplied to us.

222. Representatives of several small and medium newspapers told the Commission that printing machines which can be of use to them are mostly in the banned list. They said printing machines made in India cost more but their quality is poor. Special reference was made to second hand machines in good condition available at very cheap rates in London markets which cannot be imported because of the restrictions imposed by the Government. Some newspaper men also referred to the anomaly of spare parts of printing machines attracting



higher rates of import duty than the machines themselves. They said the provision particularly hits the newspaper industry as it cannot afford to allow printing presses to break down and therefore has to maintain a large inventory of spare parts.

223. The Commission discussed these aspects with a representative of the Chief Controller of Imports and Exports. It was informed that in some cases, machines made within the country may cost more than imported ones but their import cannot be allowed just on that ground. It will hit the domestic industry. CCI&E's representative said that if the price of a machine made indigenously appears to be inordinately high, the Bureau of Industrial Costs and Prices can be approached for fixation of fair price.

#### *Recommendations*

224. In the Chapter on Official Agencies and the Press, we have already recommended that the proposed Newspaper Development Commission should deal with research and development, among other things. It should pay special attention to the development of printing and other technologies suitable for the Press in India, especially Indian language and small and medium newspapers. The benefits arising out of the recent developments in printing technology should be available to small and medium papers. While importing technology from abroad, an attempt should be made to see that we get only the latest and the best.

225. It appears to us that the new electronic technology has a clear advantage so far as composition in Indian scripts is concerned. With photo composition, matter can be printed in Indian scripts without tampering with their aesthetics and integrity, in contrast to the limitations of hot metal composition. But the new technology has certain features which should be kept in mind and provided for when adopting it. One, which we have already noticed, is its effect on employment opportunities. Another feature relates to the physical requirements of the new technology. For example, electronic machines require temperature control and an assured source of power supply which is at present not available in most Indian cities and towns. The maintenance and repair of the machines requires skilled personnel.

226. We are of the view that every effort should be made to make the country self-reliant in the field of printing technology. Government and the Newspaper Development Commission proposed by us should pay special attention to this aspect. It may not be possible to discard the old methods and machines straightaway. The transition may last a decade or more during which newspapers can phase out their present machinery.

227. To meet the requirements of small and medium newspapers, Government should sympathetically consider the import of rebuilt or reconditioned flat-bed and other machines which are available abroad at a price much lower than that of the indigenously manufactured machines. This may be subject to a suitable limit as regards the price. The

Newspaper Development Commission, which we are proposing, should go into the question of import of reconditioned printing machines in detail.

#### **NEWSPAPER DISTRIBUTION**

228. The pattern of newspaper distribution in the country differs widely at different centres. For example, in Delhi most daily newspapers have their own distribution arrangements in the city, while in Bombay, different daily newspapers have appointed sole agents for distribution of copies in that city. In the case of distribution margins also, the position varies. While in the South, the main agents and the sub-agents usually share the commission on 50:50 basis, in the North the sub-agents get a higher share of the commission, usually more than 75 per cent.

#### *Distribution commission*

229. As noted earlier in the analysis of the revenue and expenditure data of the undertakings/newspapers which submitted figures for 1970, 1975 and 1980, the share of distribution in the total expenditure has gone down from 8.83 per cent in 1970 to 5.61 per cent in 1980. This does not, however, mean that distribution expenses have been going down. It only reflects the high share of newsprint in the cost of production.

230. Based on the Audit Bureau of Circulation certificates for the period January—June 1980, an analysis of the commission paid to distributors of daily newspapers of different categories and languages published from various centres was prepared. Of the 147 daily newspapers covered in the study, 93 belonged to the big, 43 to the medium and 11 to the small category. Editions of chain newspapers were counted as separate newspapers for the purpose of the study.

231. Thirteen out of the 147 papers covered in the study were found to be paying less than 25 per cent commission to their distributors and vendors. Eighty-two newspapers were paying from 25 to 30 per cent commission. There were 40 papers paying 30 to 35 per cent, and 12 more than 35 per cent commission.

232. The following table shows the number of small, medium and big newspapers paying commission in different ranges :

**DISTRIBUTION COMMISSION PAID BY DAILY NEWSPAPERS OF DIFFERENT CATEGORIES**

Category range (percentage)	Small	Medium	Big	Total
Upto 25 . . .	—	2	11	13
25—30 . . .	4	22	56	82
30—35 . . .	5	13	22	40
Above 35 . . .	2	6	4	12
Total . . .	11	43	93	147



Appendix IX.38 gives the circulation, price and commission paid by individual newspapers covered in the study.

233. Language-wise, Punjabi newspapers were found to be paying the highest average distribution commission of 34.30 per cent. They were followed by Bengali and Urdu newspapers with 34.10 per cent

and 32.90 per cent commission respectively. Hindi papers on an average paid 32.46 per cent and English papers 28.43 per cent commission. The average commission paid by Kannada papers—24.80 per cent—is the lowest among the newspapers in respect of which information was available in ABC certificates. The following table shows the average distribution commission paid by newspapers in various languages :

AVERAGE DISTRIBUTION COMMISSION (IN PERCENTAGE) PAID BY NEWSPAPERS IN VARIOUS LANGUAGES.  
JANUARY—JUNE 1980

S. No.	Category	Language	Small		Medium		Big		Total	
			No.	Com- mission	No.	Com- mission	No.	Com- mission	No.	Com- mission
1.	Punjabi		1	55.00	2	33.50	1	35.20	4	34.30
2.	Bengali		—	—	—	—	2	34.10	2	34.10
3.	Urdu		2	33.80	4	32.90	1	31.30	7	32.90
4.	Hindi		3	35.23	7	33.60	17	31.50	27	32.46
5.	Sindhi		1	31.00	—	—	—	—	1	31.00
6.	Malayalam		—	—	1	26.70	8	30.00	9	29.63
7.	Gujarati		3	29.93	6	28.45	7	28.38	16	28.70
8.	English		1	27.10	15	29.75	26	27.72	42	28.43
9.	Oriya		—	—	—	—	1	28.40	1	28.40
10.	Marathi		—	—	5	27.40	5	27.96	10	27.68
11.	Telugu		—	—	2	26.70	7	25.62	9	25.86
12.	Assamese		—	—	1	25.50	—	—	1	25.50
13.	Tamil		—	—	—	—	14	25.22	14	25.22
14.	Kannada		—	—	—	—	4	24.80	4	24.80

234. Of the 51 centres of publication for which the average distribution commission paid by newspapers was available, Agra came on the top with 37.7 per cent. The average commission paid in Madurai and Madras—24.9 per cent—was the lowest for the 51 centres. In Delhi, average commission paid was 30 per cent, in Bombay 28.8 per cent and in Calcutta 33 per cent. Appendix IX.39 gives the average distribution commission paid at various centres.

235. In the case of periodicals, the commission ranges from 25 per cent to 33 per cent in most cases. Foreign papers give a commission of 30 per cent in the case of dailies and 35 to 40 per cent in the case of periodicals. The commission includes the money to be spent on clearance and despatch. But in some cases, the foreign publications pay the clearance charges.

#### *Advance deposits from distributors*

236. Most Indian publications require the main distributors to make deposits with them in advance for the copies they are to get. Foreign publications at present do not require such deposits.

237. A variety of practices is being followed by different newspapers about taking back unsold copies from distributors. While established publications generally do not take back any copy for which orders had been placed, new publications usually take back unsold copies upto the extent of 10 per cent. In some cases, it is even more. About copies lost in transit, newspapers follow different practices. While the established ones expect the distributor to take up the matter with the railways, a few agree to make allowance for this.

#### *Fixing distribution margins in concert*

238. It came to the notice of the Commission that in some cases newspapers act in concert in fixing their distribution margins. This is why most daily newspapers usually give the same rate of discount at a particular centre.

239. Distributors are generally reluctant to take up the distribution of small publications. This is because the number of copies expected to be sold is very small. Major distributors are handling copies of

only a few small papers. But in the case of new publications brought out by established houses, there is generally no resistance to accepting their distribution even if the commission is low.

240. Representatives of some newspapers told the Commission that chain newspapers and the bigger distributors work together in a way that the distribution of smaller papers, especially those brought out from mofussil areas, is discouraged. There were also allegations that sometimes the bigger newspaper undertakings entrust the distribution of their papers to agents and hawkers only if they give an undertaking that they will not take up the distribution of other papers. Our recommendation in this regard follows in para 244.

#### *Change in commission structure*

241. Once the commission structure is established there is considerable resistance to changing it. If a publication offers a high commission in the beginning, it becomes very difficult for it to bring down the rate later on.

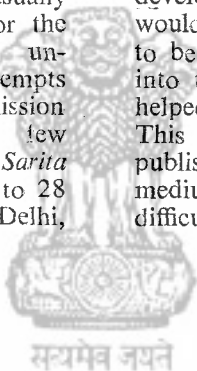
242. An increase in the price of a paper usually entails higher commission in absolute terms for the distributor as the rate of commission remains unchanged. But in some cases there have been attempts by newspapers to lower the percentage of commission while increasing the selling price. Only in a few cases have the attempts been successful. The *Sarita* Group, Delhi, reduced its commission from 30 to 28 per cent and further to 25 per cent. *Shama*, Delhi,

reduced its commission from 33 to 30 per cent. They could do so apparently because they had an established clientele and a substantial number of the copies of their periodicals went to the subscribers by post.

243. In October 1981, the *Times of India*, *Hindustan Times* and *Indian Express* published from Delhi reduced their commission in percentage terms while increasing the selling price. The selling price went up from 50 paise to 60 paise per copy but the hawkers' commission was increased by only one paise from 15 to 16 paise. The hawkers went on strike support of their demand for maintenance of the commission percentage at 30. This would have resulted in a commission of 18 paise per copy at the increased price of the papers. The hawkers went on strike but it was unsuccessful. They also challenged the newspaper managements' decision in a Delhi court where the matter is pending.

#### *Recommendations*

244. In several West European countries, one way in which newspapers are trying to overcome their economic problems is to have common facilities for distribution of copies. The State also encourages the development of common facilities and services. We would like the Newspaper Development Commission to be set up in terms of our recommendation to go into this question and see if newspapers can be helped to have common distribution arrangements. This will be of assistance particularly to newspapers published from hilly and remote areas and small and medium newspapers which at present find great difficulty in distributing their copies.



## X. THE PRESS AS A PUBLIC UTILITY

### 1. Ownership Patterns .

The first Press Commission had found the following forms of ownership of newspapers and periodicals prevalent in 1954 :—

- (i) Individual;
- (ii) Partnership;
- (iii) Joint Stock Company, Public or Private;
- (iv) Trust;
- (v) Society registered under various Acts; and
- (vi) Co-operative ownership.

2. Information available in the annual reports of the Press Registrar indicates that while the share of joint stock companies in the total number of newspapers has gone down in the last two and a half decades, their share in circulation has gone up. The share in circulation of newspapers brought out by

joint stock companies increased from 28.4 per cent in 1960 to 38.5 per cent in 1979. Over the same period, the share of individually owned newspapers declined from 36.7 per cent to 32.2 per cent. But in the total number of newspapers, the share of newspapers brought out by individuals increased from 43.5 per cent in 1956 to 64.49 per cent in 1979. The share of joint stock companies in the total number of newspapers came down from 9.59 per cent to 4.05 per cent over this period. But as we have discussed earlier in Chapter II, the data on the number of newspapers given in the reports of the Press Registrar are indicative only of general trends and cannot be taken at face value. A large number of newspapers listed in the reports are non-existent or come out irregularly. In any case, as far as the top circulation dailies in the country are concerned, most of them are brought out by joint stock companies.

3. The following tables give the changes in the percentage share of newspapers under different forms of ownership in the total number and circulation of newspapers from 1956 to 1979 :

**OWNERSHIP PATTERN—NUMBER OF NEWSPAPERS : 1956—79**

(In percentage)

Sl. No.	Form of Ownership	Number of Newspapers					
		1956	1960	1965	1970	1975	1979
1.	Individual	43.51	45.48	56.99	61.11	60.70	64.49
2.	Societies/Associations	19.72	21.57	21.10	19.78	20.00	18.34
3.	Firms/Partnerships	7.55	7.17	6.14	5.96	5.85	5.07
4.	Joint Stock Companies	9.59	7.64	5.62	4.60	4.53	4.05
5.	Government : Central & State	6.68	4.71	5.01	3.60	3.78	3.26
6.	Others	12.95	13.43	5.14	4.95	5.14	4.79
7.	Total	100.00	100.00	100.00	100.00	100.00	100.00

Source : Annual Reports of the Press Registrar.

**OWNERSHIP PATTERN—CIRCULATION : 1956—79**

(In percentage)

Sl. No.	Form of Ownership	Share of Circulation					
		1956	1960	1965	1970	1975	1979
1.	Individual	N.A.	36.7	30.6	32.5	31.7	32.2
2.	Societies/Associations	N.A.	10.3	10.5	9.6	10.0	8.9
3.	Firms/Partnerships	N.A.	9.4	11.1	10.5	11.8	9.8
4.	Joint Stock Companies	N.A.	28.4	38.2	37.4	37.5	38.5
5.	Government : Central & State	N.A.	4.4	N.A.	N.A.	N.A.	2.8
6.	Others	N.A.	10.8	9.6	10.0	9.0	7.8
7.	Total		100.00	100.00	100.00	100.00	100.00

Source : Annual Reports of the Press Registrar.

4. At present separate statistics are not being compiled by the Press Registrar in respect of daily newspapers. As pointed out elsewhere in the report, daily newspapers and periodicals of various periodicities are being mixed up in the data presented in the reports of the Press Registrar. We have recommended in the section "Press and Registration of Books Act" in Chapter IV that the Press Registrar should maintain three separate registers in respect of 'daily newspapers', 'news magazines' and 'periodicals' and therefore, henceforward it should be possible for him to present statistics separately in respect of these three categories of publications.

5. A defect in the classification of ownership in the annual reports of the Press Registrar is that it takes into account only the outer crust and not the inner significance of the ownership of newspapers. For example, the owner of a newspaper coming in the category of individual ownership may be carrying on other business activities. The fact of a newspaper coming under this category does not guarantee that the owner does not have any significant interest in other industries/business activities. In the case of joint stock companies publishing newspapers, these may be controlled by families individuals/groups of individuals with or without interest in other industries/business activities or other joint stock companies. The data given in the reports of the Press Registrar do not indicate the types of people having a controlling interest in newspaper undertakings.

#### *Concept of 'Common Ownership Units'*

6. A yard-stick to indicate 'concentration of ownership' used in the annual reports of the Press Registrar is the extent of circulation commanded by newspapers brought out by 'common ownership units' (COU). A common ownership unit is defined by the Press Registrar as a newspaper establishment owning two or more news-interest newspapers, at least one of which is a daily. This is not a particularly illuminating yardstick for measuring the concentration of ownership. A newspaper undertaking bringing out a daily newspaper and a weekly, both with a circulation of less than 15,000 stands listed as a common ownership unit according to this classification. A number of COUs listed in the annual reports of the Press Registrar have a combined circulation of less than 10,000 of all their publications.

7. Somewhat more meaningful is the identification of big common ownership units (bringing out news-interest publications with a combined circulation of one lakh and above). As much as 64.5 per cent of the total circulation of dailies in 1979 was accounted for by 30 such units. This definition also does not help to distinguish between newspaper establishments owned by industrial houses or trading or other business interests of a large size, and others which are not so owned.

#### *Disclosure of ownership particulars*

8. Under Section 20A of the Press and Registration of Books Act, the Central Government is empowered

to make rules prescribing particulars of ownership to be published annually in every newspaper. According to Rule 8 of the Registration of Newspapers (Central) Rules 1956, the publisher has to publish in the first issue after the last day of February of each year, particulars of ownership (Appendix X.1) which include the names and addresses of individuals, partners or shareholders holding more than one per cent of the capital. We are of the view, as stated in Chapter VII, that the rule needs to be modified so as to require every newspaper to give the names of the top 100 shareholders as well as the nationality, extent of shareholding and the main occupation of each such person. The names of the persons constituting the Board of Directors along with other directorships held by them should also be printed. This will enable readers to know the identity of persons controlling the newspaper and also be aware of the particular character of the newspaper.

#### *IIPA Study of Ownership Patterns*

9. In view of the inadequacy of data on ownership patterns, we commissioned a study on the *Ownership and Control Structure of the Indian Press* by an economist and a researcher working with the Public Policy and Planning Division of the Indian Institute of Public Administration, New Delhi (Appendix X.2). The study covered common ownership units and all daily newspapers with a circulation of more than 15,000. In all, dailies with a circulation of nearly 86 per cent of the total circulation for the year 1979, as per the annual report of the Press Registrar, were examined. On the basis of linkages of the newspaper establishments (through top shareholders and managements) with activities outside the newspaper industry, the authors of the study put different newspaper establishments in six categories and worked out the share of each category in the total circulation of dailies in 1979.

#### *Verification of Data given in the IIPA Study*

10. To ascertain if the information on ownership linkages used in the Study was correct or not and to update the data, we sent relevant extracts from the Study Report (without identifying the source) to 70 important newspaper companies/undertakings. Out of these 45 companies/undertakings responded. The names of the companies which responded to our request and the others which did not are given in Appendix X.3.

11. The data given in the Study on the basis of which linkages had been assumed between newspaper establishments and big business/local industry/families were contested by several of the newspaper companies so categorised. An appraisal of the IIPA Study prepared by the Secretariat of the Commission giving the highlights of the rejoinders received from newspaper companies upto 20th November, 1981 is reproduced in Appendix X.4. The comments made by the authors of the Study on the rejoinders received from newspaper establishments are given in Appendix X.5.

### Pattern of Ownership of top 54 dailies

12. On the basis of the data given in the IIPA Study, rejoinders received from newspaper undertakings, and information obtained from the Department of Company Affairs of the Ministry of Law, Justice and Company Affairs and Registrars of Companies, we have put the top 54 dailies\* listed in *Press in India* 1980 in the following categories :

Category	No.	Circulation	Per cent of the total circulation
1. Newspapers owned or controlled by companies or undertakings or businessmen with interests in other businesses or industries.	27	54,05,711	40.87
2. Newspapers owned or controlled by companies or families or individuals or groups of individuals with primary interest in newspaper business.	20	24,86,969	18.80
3. Newspapers owned or controlled by individuals or groups of individuals representing a variety of interests.	1	3,08,833	2.33
4. Newspapers owned or controlled by Trusts or educational organisations with primary interest in newspaper business.	1	1,56,689	1.18
5. Newspapers owned or controlled by Trusts or educational, cultural or religious organisations as a means to achieve their wider objectives.	5	3,33,515	2.52
<b>TOTAL</b>	<b>54</b>	<b>86,91,717</b>	<b>65.70</b>

13. In deciding whether a newspaper is owned or controlled by companies or undertakings or businessmen with interests in other businesses or industries, we have taken into account the extent of ownership or the extent of control held by them and we have put in this category those newspapers in which 50 per cent or more of the ownership rights or control is held by companies or undertakings or businessmen with interests in other businesses or industries. While determining the extent of control, we have relied on *prima facie* evidence; for, we could not undertake a detailed study of the working of every newspaper undertaking in the country. Thus, if a newspaper company has five directors of whom three have directorships of other companies engaged in other businesses, we have put it in category (1) mentioned above. The names of the newspapers in the different categories and their circulation are given in Appendix X.6. Information on the ownership and control structure (top shareholders and directors, etc.) of individual newspapers/

\*Multiple editions of a daily newspaper published from different centres have been taken as one newspaper.

newspaper companies and our reasons for placing them in different categories are given in Appendix X.7.

### Pattern of ownership of top 50 periodicals

14. According to the *Press in India* 1980, 50 periodicals had a circulation of one lakh and above in 1979. We found that 16 of the top 50 periodicals are brought out by newspaper companies which also publish the top 54 dailies. Apart from these, the IIPA study also gave data on the ownership of five periodicals among the top 50. We did not make an extensive study of the ownership pattern and linkages of periodicals because many of them deal with matters other than news and current affairs and the ownership linkages are not as crucial in their case as in the case of daily newspapers.

15. Twenty-three of the top periodicals, which are either owned by publishers of the top 54 dailies or about which we could get information from the IIPA Study or other sources, fall in two categories :

Category	No.	Circulation	Per cent of total circulation of periodicals
(i) Periodicals owned or controlled by companies or undertakings or businessmen with interests in other businesses or industries; and	13	23,56,149	7.09*
(ii) Periodicals owned or controlled by companies or families or individuals or groups of individuals with primary interest in newspaper business.	10	17,32,718	5.22*
<b>TOTAL</b>	<b>23</b>	<b>40,88,867</b>	<b>12.31</b>

\*Listed in Appendix X.8

16. It appears to us that a very significant part of the Press in the country in general, and a major portion of the all important daily Press in particular, is controlled by persons having strong links with other businesses or industries.

## 2. COMPETITION AND MONOPOLY

17. The number of newspapers published in most of the States and Union Territories is very large and would, on the face of it, suggest a heartening situation as regards diversity of choice for the newspaper reader. However, the disparity in the share of total circulation is so wide that the satisfactory state of the situation might be more apparent than real. In order to ascertain the actual competitive position, a study was made by the Commission's secretariat of the share of the top two dailies in the total circulation of dailies published in each State and Union Territory in 1979 (Appendix X.9).

18. The findings with regard to the Union Territories are not really meaningful, since the Union Territories are small in size and newspapers published from their headquarters (as in the case of Delhi and Chandigarh) have a high proportion of their circulation outside the Union Territory of origin. This limitation applies to the data in respect of the States also with regard to some publications in Hindi Urdu and English—languages in which circulation tends to be multi-State. Contrariwise, there could be a considerable circulation of incoming dailies. Moreover, in States/Union Territories with a limited number of publications which have between them a small total circulation, the percentage of circulation commanded by a particular newspaper is not necessarily suggestive of 'monopoly' or an undesirable degree of concentration.

19. After making allowances for the above factors, it will be seen that the top two dailies account for more than 50 per cent of the circulation of newspapers published in a State only in the case of Kerala and Madhya Pradesh. We are aware of the limitations of this study. In fact the criteria for determining dominance should be language and the effective circulation area.

20. We tried to examine the situation with regard to competition in another way, namely language-wise. The picture that emerged is given in Appendix X.10. It will be seen that, after applying the qualifying criteria regarding small circulation and/or small total number of newspapers, indicating an undeveloped state of the Press, a condition approximating to 'monopoly' can be said to exist in respect of Bengali, Kannada, Malayalam, Tamil and Telugu. After applying the same criteria, it is seen further that in the following languages, a single newspaper commands more than one-third of the total circulation of dailies in that language : Bengali, Kannada, Malayalam and Telugu.

21. Periodical publications other than dailies, in any language, tend to have a greater degree of multi-State circulation than daily newspapers, because of their longer 'life'. It will be seen from Appendix X.11 that, again after applying the criteria suggested earlier, the only language in which the top two weeklies account for more than 50 per cent of the circulation of weeklies in that language is Kannada.

22. Whether it is a daily or a journal of other periodicity, we are of the view that in respect of languages which are not multi-State, the right approach to examining whether there is such a degree of concentration as to cause public concern is to consider shares in circulation language-wise. The question remains of the approach to be adopted in the case of languages spoken widely in more than one State. We examined the possible remedies for undue concentration of ownership of newspapers in both cases. In a subsequent section of this Chapter we suggest an approach based on language as well as area of effective circulation.

### *Effect of Chain Newspapers on Local Rivals*

23. Irrespective of the pattern of its ownership—whether linked with large industrial houses or family-owned—a big newspaper generally expands its circulation by opening new papers or editions from new centres. (A conspicuous exception is *Ananda Bazar Patrika*, the largest circulated single-edition daily with a circulation (4,03,047) smaller than only four multi-edition dailies, namely *Indian Express* (6,47,709) with ten editions, *Malayala Manorama* (4,70,779) with three editions, *Times of India* (4,67,812 with three editions, and *Navabharat Times* (4,17,514) with two editions. We, therefore, made an attempt to study what effect the opening of new editions of chain newspapers has had on established newspapers in the new centres of publication. The findings may be seen in Appendix X.12.

24. The First Press Commission had observed in 1954 : "Generally, in any town where a provincial or district paper of some standing is published, it is able to secure the largest share in the local readership notwithstanding competition from the metropolitan or provincial papers and regardless of disparities in size, production standards and news services." From our study of the effect of new editions of chain newspapers on the circulation of local dailies, this appears to hold good even in respect of competition from a new edition opened by a metropolitan newspaper.

25. The study covered the dailies published by the top six newspaper establishments which started new editions between 1970 and 1979. According to the Press Registrar's records, the six newspaper concerns started 14 new editions in the last decade. Out of these, nine were included in the study as the others did not have local rivals.

26. It will be seen that the Chandigarh edition of the *Indian Express* has not affected the growth of the *Tribune*, which is the only local English newspaper of standing. The new edition of *Indian Express* at Hyderabad has not affected the growth of *Deccan Chronicle*. Similar is the case with the Calcutta edition of *Economic Times* vis-a-vis *Business Standard*; the Ernakulam edition of *Malayala Manorama* vis-a-vis *Mathrubhoomi*; and the Bangalore edition of the *Hindu* vis-a-vis *Deccan Herald*. However, the Hyderabad edition of *Eenadu* appears to have adversely affected *Andhra Bhoomi*. The growth rate, though not growth in absolute terms, of the local papers has been affected in some cases.

### 3. U.K. AND U.S. EXPERIENCE

27. The first Royal Commission on the Press in U.K. said in 1949 that a monopoly publisher, by his selection of news, manner of reporting and commentary on public affairs would be in a position to determine what shall be read by the people on the events and issues of the day and also exert a strong influence

on their opinions and that even if this position was not consciously abused, a newspaper without competitors was likely to fall below the standard of accuracy and efficiency which only competition could enforce. The third Royal Commission on the Press said in 1977 that a monopoly publisher would determine who should be criticised and what shall be investigated and that a journalist who did not conform to the policies of the monopolist would have either to compromise or quit. The Monopolies and Mergers legislation of U.K. makes the consent of the Secretary of State obligatory whenever the controlling interest in a daily, Sunday or local newspaper is sought to be transferred to a person with other newspaper interests if such person already controls or would control after such transfer, 25 per cent or more of the voting shares of any other daily, Sunday or local newspaper having an average daily circulation of 5,00,000 copies or more. The Secretary of State is required to refer such proposed transfers, with some exceptions, to the Monopolies & Mergers Commission unless he is satisfied that the newspaper concerned is not economic as a separate paper and that Commission is expected to examine and report whether the transfer would operate against the public interest. In a number of cases, the Monopolies and Mergers Commission expressed concern that even though there might be no harm to the public interest by a merger, it was impossible to judge the cumulative effect of a number of such mergers. The third Royal Commission noted that there was growing concentration in national periodicals and provincial newspapers. It suggested further strengthening of the monopolies legislation and recommended that every newspaper should be obliged to state not only the name and address of the publisher but also whether it was a subsidiary of another company and if so, the name and country of incorporation of its ultimate holding Company and to display both these items of information with reasonable prominence. The third Royal Commission was also of the view that the proprietors of newspapers should guarantee the following basic rights to the editors :

- (a) to reject material provided by the management;
- (b) to determine the contents of the newspaper within the bounds of reasonable economic consideration and the established policy of the publication;
- (c) to allocate expenditure within a budget ;
- (d) to criticise the paper's own group or other parts of the same corporate organisation;
- (e) to reject advice on editorial policy;
- (f) to carry out investigative journalism;
- (g) to change the alignment or views of the paper on specific issues within its agreed editorial policy; and
- (h) to appoint or dismiss journalists and to decide the terms of their contracts of employment

within the established policy of the organisation and the right to assign journalists to stories.

The Commission recommended that in the case of large newspapers, the editor's contract should specify at least 12 month's notice and that journalists working in the newspaper should be involved in the appointment of editors.

28. In U.S.A., the anti-trust laws directed against restrictive and monopolistic practices in trade and commerce have been applied to newspapers. The U.S. Supreme Court has held in *Associated Press v. U.S.*<sup>1</sup> that anti-trust laws do not conflict with the freedom of the Press guaranteed by the First Amendment as that freedom does not confer the freedom to combine to keep out others from publishing newspapers. But it appears, in practice, these laws have had little effect in checking monopoly. With the death of the second paper in city after city, the U.S.A. has enacted the Newspaper Preservation Act in 1970 which allows competing newspapers in the same city to pool their printing and business operations and to fix joint advertising rates if one of them is in danger of failing. The federal Communications Commission has imposed restrictions on newspapers acquiring radio and television stations in the same city and the U.S., Supreme Court has held<sup>2</sup> that divestiture of either a newspaper or television or radio station ownership would be required where a community is getting only one voice. The Court has stressed that these restrictions do not violate the First Amendment Rights as they promote the public interest in diversified mass communications.

#### 4. THE M.R.T.P. ACT AND THE PRESS

29. In India, concentration of economic power has been thought of in two ways : control of a very large area of business in the country as a whole or in a region, or, control of a large proportion of the production of a particular commodity or service, by a group of individuals in various ways acting in concert or coordination. The former is called countrywide or regional concentration and the latter is known as product-wise concentration.

30. The approach underlying 'The Monopolies and Restrictive Trade Practices Act, 1969', is :

- (a) Whenever concentration of economic power as defined by certain criteria exists the business concerns should be registered under the Act. Each case has to be examined in the context of the circumstances prevailing at the time with reference to the

<sup>1</sup> 326 U.S. 1(1945).

<sup>2</sup> In *Federal Communication Committee v. National Citizens Committee for Broadcasting, et al*, decided on 12-6-78 as reported in *Editor and Publisher*, pp 17-18, issue dated 17-6-78 (Editor and Publisher Co. Inc., New York).



criteria of public interest laid down in section 28 of the Act. The Act has enabling provisions for breaking up of existing concentrations and barring of future expansions.

- (b) When dominant or monopolistic undertakings indulge in monopolistic practices such as limiting production, supply or distribution, limiting investment or preventing or lessening competition with a view to maintaining prices at an unreasonable level, the matter may be examined with reference to the criteria of public interest laid down in section 32 of the Act and appropriate orders issued.
- (c) When business concerns indulge in restrictive practices such as common fixation of prices, tying arrangements, exclusive dealing, discrimination in dealings, etc., the matter may be examined with reference to the presumption of public interest as laid down in section 38 and appropriate orders issued.

31. We agree with the Sachar Committee, which went into the working of the M.R.T.P. Act and made recommendations in 1977-78, that there is no justification for exempting the newspaper industry from its provisions. As already pointed out, similar legislation has been made applicable to the Press in the U.S.A. and the U.K. It cannot be ignored that organising and/or conducting a newspaper now requires an investment and an ability to sustain losses and also business relationships which are more easily available to those who are already well entrenched in the business; newcomers or those who are small as compared to the large newspapers in their own market are bound to find it difficult to make headway. It is likely that unrestricted expansion of the existing large newspapers into new areas—geographical, language or interest-wise—will make things difficult for the smaller newspapers in those areas even to continue. The growth of monopoly Press can create a situation where independent channels of information and expression decline.

32. 'Purveying of news or other information' falls within the definition of 'service' in section 2 of the Act. A 'dominant undertaking' with reference to a service is defined as an undertaking which either by itself or along with interconnected undertakings, provides or otherwise controls not less than one-third of the services that are rendered in India or any substantial part thereof. Similarly, a 'monopolistic undertaking' with reference to a service has been defined as a dominant undertaking or an undertaking which together with not more than two other independent undertakings provides or otherwise controls not less than one-half of the services that are rendered in India or any substantial part thereof. The current interpretation is that 'dominance' or 'monopoly' of

a newspaper is to be ascertained in relations to circulation of newspapers in all languages in India or a substantial part of India. This has made the Act a dead letter in respect of newspapers. We think that the proper way of determining 'dominance' or 'monopoly' with reference to a newspaper undertaking is to take into account the circulation of the newspaper in the area within which, with the currently available means of transportation, a substantial part of the newspaper is circulated. Further, when considering the total market for a given newspaper the language in which the newspaper is published would be directly relevant. A newspaper cannot compete with another in a different language or in an area which it cannot reach in reasonable time. We recommend that for determining 'dominance' or 'monopoly' the effective market should be considered; it may be the whole of India in the case of some newspapers and periodicals or a State or a region in the case of others. As recommended by the Sachar Committee, for purposes of determining dominance, the existing criterion of one-third should be reduced to one-fourth share of the market. It should be left to the M.R.T.P. Commission to decide the matter in accordance with the facts of each case. We are of the view that no case relating to a newspaper should be decided under the M.R.T.P. Act with a public inquiry by the M.R.T.P. Commission. This would ensure that different aspects of the question of a situation of monopoly and concentration receive fair attention by an independent, quasi-judicial body. We also recommend that the M.R.T.P. Commission should have the authority to act *suo moto* if allegations of monopolistic practices by a newspaper undertaking come to its notice.

## 5. DE-LINKING & DIFFUSION OF OWNERSHIP AND CONTROL

33. Our Constitution establishes a sovereign, socialist, secular, democratic republic. Article 51A lays down that it shall be the duty of every citizen to abide by the Constitution and respect its ideals. Article 38 directs that the State shall strive to promote the welfare of the people by securing and protecting, as effectively as it may, a social order in which justice, social, economic and political, shall inform all the institutions of national life. And how this has to be achieved is, as stated by the First Press Commission, delineated in Part IV of the Constitution relating to the Directive Principles of State Policy.

### *Freedom and responsibility*

34. Freedom of speech, like every other freedom, must not only be a freedom from but also a freedom for achieving something. Freedom of expression, though an individual freedom, in its social and political aspects, is primarily a means of achieving other goals. In the ultimate analysis the right to freedom of expression is derived from the responsibility for the common good. The Press is a very important instrument in the exercise of this freedom. The fulness and unbent integrity of news and comments on news is a matter of profound social concern since the

citizen's political duty is at stake. Freedom of the Press is not merely a professional right that inheres in journalists. It is essentially the reader's right to know. "The phrase 'freedom of the Press' must now cover two sets of rights and not one only. With the rights of editors and publishers to express themselves there must be associated a right of the public to be served with a substantial and honest basis of fact for its judgments of public affairs. Of these two, it is the latter which today tends to take precedence in importance; in Robert Leigh's pertinent phrase, freedom of the Press 'has changed its point of focus from the editor to the citizen'".<sup>1</sup> The Press is therefore a public utility discharging the basic social function of informing, educating and entertaining the public. The opinion, conduct and action of people in all walks of life are influenced by the news and view which newspapers carry. For the public interest in this vital area to be properly served, the presentation of news and views in the Press should be fair, accurate, objective, balanced and truthful. The right to have an adequate service of news, therefore, gives rise to a public responsibility. Hocking rightly said: "Inseparable from the right of the Press to be free has been the right of the people to have a free Press. But the public interest has advanced beyond that point; it is now the right of the people to have an adequate Press. . . . It is not sufficient that what is in the Press shall be the untrammelled utterance of the issuers; the Press in its growth has moved in upon a vital function in community life, and, finding itself there, is confronted with the new necessity of fulfilling that function. Its activities are 'affected by a public interest'; and the task of practical action as well as of theory is to take the measure of that interest, and its ensuing obligations. The freedom of the publisher to publish become responsible to a specific public goal". Today the welfare of the public is the central issue in the concept of freedom of the Press. From this standpoint a free Press conducted in a spirit of responsible citizenship may be at once the central problem and the main safeguard of modern democracy. If the *raison d'être* of mass media is not to maximise discussion but to maximise profit by resort to sensationalism and extravagance, or to indulge in biased presentation and display of news and opinion with a view to boosting some personalities or carrying on propaganda against others, its performance will hardly comport with its social responsibility.

#### *Journalism—a public trust, not merely an industry*

35. The attention to economic aspects of the Press serves to emphasize the fact that it consists of commercial enterprises and not public service institutions. Newspaper proprietors, indeed, are wont to refer to their 'industry'. So one may ask what entitles newspaper owners to turn the printing and the selling of news—which is a social service—into a private business

or industry. The news they gather and the comment they write has to be sold to the public, usually under stress of competition. As news-getters and news-sellers, journalists may hardly seem entitled to claim a higher status than that of any vendor of goods or services. Yet the functions they actually discharge give them a public standing above that of man whose only aim is to catch the attention of their fellowmen. This standing comes from the instinctive public recognition that journalism proper is in the nature of vocation, that it is something more than a craft or an industry. Journalists are unofficial public servants whose purpose is to serve the community. Experience teaches them that their craft may be an industry, a business, as well as a liberal profession, an art or a ministry; that it may be all these things by turns and, at moments, all of them together. They know that, as its name implies, journalism consists in gathering, printing and publishing news of events, day by day, with or without comment or opinion. They know that this is responsible work, that news is expected to be true and the comment upon it to be honest. But news, when printed and published, has to be sold. The newspaper-buying public may not like unpleasant news or distasteful opinions. The production of newspapers, as an enterprise, and the men who produce them, depend upon public favour. But how far are they entitled to court public favour in their efforts to earn more profit? To what extent do they betray their trust if they trim their news or their opinions to suit the public taste? Are they more blameworthy if they trim news or withhold their full convictions upon it than is a tradesman who gives short weight or the manufacturer who adulterates his products?

36. In our view, the underlying principle that governs, or should govern, the Press is that the gathering and selling of news and views is essentially a public trust. It is based upon a tacit contract with the public that the news shall be true to the best of the knowledge and belief of those who offer it for sale, and that their comment upon it shall be sincere according to their lights. The same kind of trust is implied in the relationship between a doctor and his patients, though medical men work under the discipline of a professional code and are obliged to hold medical degrees, whereas journalism is a 'free' profession subject only to the external restrictions which the law of the land may place upon it. But the dishonest doctor can harm, at worst, only a few dozen or a few score patients, while a dishonest journalist may poison the minds of hundreds of thousands or millions of his fellowmen. A journalist who sells, or is a party to selling, news that he knows to be false or only partly true, or who trims opinions so as to make them palatable, is more guilty than a tradesman who gives short weight or a manufacturer who offers adulterated goods. The spreading of false statements is more harmful than the sale of material wares under false pretences. The journalist who betrays his trust is more blameworthy than a dishonest tradesman. Journalism, as the basis of the 'newspaper industry', holds a special position because its raw material is really the public mind and it trades chiefly in moral values. In a sense the trusteeship or moral responsibility of the Press is akin

<sup>1</sup>—<sup>4</sup> William Ernest Hocking : *Freedom of the Press* (1947), 167-180.

to that of ministers of religion, statesmen and leaders of public thought. In another sense it is subject to industrial and mercantile conditions that do not affect these other trustees in the same degree.<sup>5</sup>

*Association with other businesses harmful to public interest*

37. When newspapers are controlled by other big businesses they become vehicles of expression of the ideology of their owners and the selection, presentation and display of news in such newspapers would be dictated by that ideology. The newspaper industry in their hands becomes involuntarily the cultural arm of other businesses and industries and takes a vested interest in maintaining the existing socio-economic system. The newspapers controlled by them may be selective in their presentation of news and views in return for benefits conferred in respect of their other business interests. Senior journalists have laid the heaviest blame for falling standards of journalism on the jute Press syndrome wherein a newspaper is merely one little component of a vast business empire and on the emergence of 'professional mercenarism', to correct which, they suggest that a journalist too should have an oath modelled on the famous Hippocratic Oath.<sup>6</sup> Commercial newspapers are largely produced for the urban elite. Their style and content and the news they carry, are not particularly relevant to the rural masses or to the poor. Odd exceptions apart, commercial newspapers do not normally find a word to say in sympathy with the legitimate demands of the working class. They become naturally antagonistic to the implementation of certain key Directive Principles contained in Part IV of the Constitution. Legislative measures intended to ensure that the ownership and control of the material resources of the community are so distributed as best to subserve the common good, or, that the operation of the economic system does not result in concentration of wealth and means of production to the common detriment (Article 39 of the Constitution) run counter to their business and other economic interests. If all major newspapers come to represent a similar if not the same view-point as is not unlikely when all of them belong to large private business enterprises, a view point which is against the interests of big business may not receive a fair deal in their columns. An examination of the attitude taken by large newspapers to policies and legislation that went against the interests of private big business such as the Companies Act, the M.R.T.P. Act, the proposals of nationalisation of Imperial Bank and Life Insurance Companies in 1956 or the bank nationalisation in 1969, by and large, supports this conclusion to a significant extent. The newspapers controlled by big business, have, on the whole, been opposed to such measures in the past. We need not enter the controversial area whether those measures were really progressive or not. A measure can only be judged with reference to a goal. It is enough for

out purpose to say that legislative measures needed for achieving the goals of our State run counter to the vested interests of the owners of those big newspapers who have large interests in other businesses.

*Views of the First Press Commission*

38. The First Press Commission, while it recognised the owner's right to lay down the policy of his newspaper, noticed certain tendencies in the Press : the profit motive replacing the idealistic and missionary spirit of the former days ; the conversion of individually owned or family concerns into joint stock companies ; the increase in the number of papers under the control of each individual concern leading to concentration of ownership ; transfer of even editorial control to the management and subordination of the public interest to the business and commercial interests of the owners. The Commission thought it was natural for a newspaper owned by a businessman or an industrialist to adopt editorial policies which would advance directly or indirectly the interests of the business community as a whole or the particular business interests or commitments of the owner. It did not see any cause for complaint if espousal of such policies was restricted to the editorial columns. But the Commission was anxious to ensure that it did not affect the fairness, objectivity, accuracy and comprehensiveness of the news reported in the newspapers. The Commission said that while a person's opinions were his own, if he claimed to purvey the news, the buyer was entitled to insist that it shall be untainted, unadulterated and undiluted.

39. The First Press Commission also noted certain instances of harmful interference by owners : dictation of day-to-day policy in reporting and editing of news leading to over-emphasis of one side of a picture or blacking out or distortion of another side ; boosting of the owners or their business activities ; resort to sensationalism to satisfy the owner's anxiety to earn greater profits, etc. It referred to instances where owners or persons controlling newspapers have had no connection with or training in journalism or those who had indulged in anti-social activities. While recognising that ultimately character and conduct of the men involved would determine the performance of the Press, the Commission came to the conclusion that exercise, by the individual owner, of the right of control, carried with it the very real danger of misuse of the Press for personal or purely commercial purposes. According to the Commission, the remedy lay in diffusion of effective control. One method of diffusion of control suggested was transfer of management to a public trust without making any change in the ownership of the paper. If this suggestion had been acted upon by owners of big newspapers, perhaps, we would have had no occasion to think of delinking ownership and control of newspapers from other business interests. It is precisely because the businessmen owning or controlling big newspapers have not acted on the advice of the First Press Commission of creating trusts for their management that we are obliged to seriously consider the question once again and seek other remedies.

<sup>5</sup> See generally, Henry Wickham Steed : 'The Press'.

<sup>6</sup> D. R. and Kamla Mankekar : Decline and Fall of Jidira Gandhi (Vision Books).

### *Delinking necessary in public interest*

40. An American expert in business management echoed the view of the First Press Commission when he said in 1954 :

"It is not good journalism to have a newspaper controlled by outside capitalists or corporations which may endeavour to limit the execution of the journalistic function. A newspaper should be so financed that its editorial policy is not subject to those who wish to control news and opinion for their own private purposes or whose only interest is the financial return irrespective of editorial policy".

41. The Vivian Bose Commission which inquired into the administration of Dalmia-Jain Companies and submitted its report in June 1962 unravelled some of the malpractices indulged in by the big businessmen controlling the affairs of Bennett, Coleman & Co., the leading newspaper undertaking in the country (extracts given in Appendix X.13). The control of the newspaper company was used for private business gains. The persons involved were charged with serious allegations of mismanagement, misappropriation and embezzlement of funds, etc. We were told of the attempts made to suppress the circulation of news about these matters not only by the newspapers belonging to this company but by newspapers generally. It was specifically alleged before us that the report and the findings of the Commission presented to Parliament on 23rd January, 1963 did not receive wide coverage in the Press because of the influence of the persons involved over the news agencies and newspapers. We tried to find out the truth and the narration of our limited efforts in this behalf is given in Appendix X.14. Following continued maladministration, the management of that Company was placed in the hands of non-owner members in the Board of Directors appointed by the Bombay High Court in August, 1969. The orders passed by the Bombay High Court in this behalf are in Appendix X.15. Particular individuals or groups could manage, through various devices like inter-corporate investments, etc., to exercise a degree of control grossly disproportionate to their own financial contribution or stake in the newspaper organisations. The latest data on the relationship between paid-up Capital and Net Worth in newspaper establishments given in Annexure 4 of the Palekar Award shows how on very slender Capital base, very large capital assets are being controlled by newspaper managements. The Award comments :

"Even the top establishment of Bennett, Coleman & Co. Ltd., was content with a capital of Rs. 41.85 lakhs until 1978 when its Gross Revenue was above Rs. 38 crores, the Gross Block above Rs. 6 crores and Gross Profit more than Rs. 2.5 crores ; ..... The

obvious inference is that old reputed establishments can command other resources for their working capital."

We came across a news report saying that the Bennett, Coleman & Company had applied to the Company Law Board for permission to include 'shipping' in its Memorandum of Association. On enquiring from the company and also the Company Law Board, we found that originally, Bennett, Coleman & Company was authorised to undertake the business of manufacturing of paper in addition to newspaper business. Through an order dated 11th February, 1981, the Company Law Board approved the addition of the following businesses to the company's Memorandum of Association :

- (i) Rural Development ;
- (ii) Chemicals, cement, synthetic fibre and yarn and jute industries ;
- (iii) Manufacture of items using jute, bamboo, grass, sugarcane, hessian, gunnies, asbestos, wastepaper, etc. ;
- (iv) Processing of agricultural produce and making of oil etc. from the same.

The Bombay bench of the Company Law Board informed us in February 1982 that it has also decided to approve the addition of 'shipping and electronic business' to Bennett, Coleman's objects clause. It is clear that a number of important newspaper establishments are being controlled by small groups of individuals having major business interests outside the newspaper world.

42. The ownership or control of big newspapers by big business or persons associated with big business is reflected to some extent in the coverage of news, particularly about the working of undertakings in the public and private sectors. One of the special features of information as well as discussion on economic affairs in the Press is the very large coverage—detailed and critical—of the working of public sector undertakings and government organisations which is, of course, welcome. But when it comes to the functioning of private business corporations, one finds very little information or analysis in any of the newspapers including specialised newspapers dealing with financial and economic matters.

### *The 1971 Bill to amend the Companies Act*

43. Delinking and diffusion came to be discussed widely in the wake of nationalisation of banks after the Congress Party split in 1969 and a new government came to power as a result of the mid-term elections to the Lok Sabha in 1971. A Bill was drafted in 1971 for amending the Companies Act incorporating special provisions for delinking newspaper companies from big business but it was not proceeded with.

<sup>7</sup> Theyer, Frank : Newspaper Business Management (Prentice Hall, New York), p. 1.

*The view of I.F.W.J.*

44. The Indian Federation of Working Journalists passed a number of resolutions between 1965 and 1976 calling for steps to delink the Press from other big businesses and industries. The resolutions specifically mentioned diversion of funds from newspaper establishments. The Federation continues to hold the view that the Press controlled by business distorts popular opinion and is harmful to the growth of small papers. In a Memorandum submitted to us the Federation argued that the existing ownership pattern, especially control through limited companies has proved inimical to editorial independence and professional integrity. It contends that important units of the Indian Press are under the tight control of Indian big business.

*The findings of F.F.C.N.E.*

45. The Fact Finding Committee on Newspaper Economics which submitted its report in 1975, said that there were a number of cases of close connection between non-newspaper business and the business of publishing newspapers. Among the types of inter-links came across by the Committee were :

"Sometimes the subsidiary companies are entirely unrelated to printing and publishing. To take an instance, the Indian Express Newspapers (Bombay) Pvt. Ltd. and its three subsidiaries, namely, Indian Express (Madurai) Pvt. Ltd., Andhra Prabha Ltd. and Express Newspapers Private Ltd., own jointly a firm known as Express Traders which dealt in Indian Iron shares. Indian Express (Madurai) had also a subsidiary of its own, namely, Ace Investment Co. Ltd., which has been holding the shares of National Company. The Indian Express's own relations appeared to be as follows :

"Indian Express Newspapers (Bombay) Ltd. owns all the shares of Indian Express (Madurai) Ltd. and of Andhra Prabha Pvt. Ltd. The three companies and Express Newspapers Pvt. Ltd. jointly own the firm of Express Traders. Ace Investment Pvt. Ltd. and Express Traders also own shares in Indian Iron and Steel Co. Ltd. Ace Investments Pvt. Ltd. also holds shares in the National Company, Calcutta. The National Company, Calcutta, holds a large block of shares in the Indian Express (Bombay) Ltd. thus, completing the circle.

"Sometimes, the same company publishes newspapers and undertakes non-newspaper activity. The Pioneer Ltd. publishes the *Pioneer* and *Swatantra Bharat* and the company also buys and sells cotton yarn and cloth on behalf of a mill. The total value of newspaper transactions is about Rs. 60 lakh per year; the total value of yarn transactions is about Rs. 2 crores per year."

The Committee commented :

"Newspaper profits have been used for acquiring shares in industrial enterprises. Deposits attracted from the public in the name of newspapers have been used for a variety of purposes, sometimes creating difficulties in meeting the repayment obligations. If newspapers are accepted as a public service, it is essential that profits earned from newspapers should be ploughed back into the newspaper enterprise itself."

According to the Committee, the main economic advantage accruing from delinking would be that newspaper profits would not be capable of being easily used for purposes other than publication of newspapers.

*Exercise of power subject to responsibility*

46. Today the Press is a big centre of power. No wonder, Kipling wrote :

"Remember the battle and stand aside  
While Thrones and Powers confess

That King over all the children of pride  
Is the Press—the Press—the Press,"

and Henry Wickham Stead administered the warning :

"To be 'King over all the children of pride', to chasten the haughty and succour the weak, to scorn the bigot and confound the sceptic, to serve truth without fear, to admonish the people and expose the demagogue, to chide the wayward and embolden the faint-hearted—in a word, to provide sound comment upon public life in all its aspects—should be the task of the Press and the source of its power. And it is the danger lest it cut itself off from this source by becoming a mere "industry", by pandering to the public for the sake of the big circulations which bring big revenues, that makes the problem of the Press today the central problem of modern democracy."

The power associated with control of means of production in the past has now been, to a great extent, transferred to those who control the mass media as it can no longer be sustained otherwise. Those who control the means of production try to control the media not only for profit but much more so far perpetuation of power associated with their possession of means of production. James Bryce said<sup>9</sup> :

"The tyranny of the monopoly is even worse in opinion than in commerce. How could dictatorship of such a syndicated press be resisted?"

Wickham Stead : 'The Press' (1938) p. 50.

<sup>9</sup> Modern Democracy, Vol. 1, pp. 121-2.

No one ought to exercise power in a democratic polity without responsibility. When a person's private interest conflicts with his duty to the public, there is every justification in a democracy for insisting that the exercise of power connected with his public duty be segregated from his private interest.

47. As we have stated elsewhere in the report, an informed citizenry is a fundamental postulate of democracy. The Press is the most important instrument in our country for educating the citizens in matters of public importance so that they may form an independent judgment to play their role as the ultimate governors of the country. It can hardly be disputed that the ownership structure of newspaper establishments determine the character and style of news report and news display as also the editorial viewpoint and other comments on the events of the day. What gets self-censored and gets blacked out might be as significant as what gets reported. News and views take their colour from the attitudes and postures of management and such attitudes and postures are dictated by considerations of the primary interest of the newspaper owners. The Press cannot be truly free if the communication industry is the channel through which opinions and values of its capitalist owners are disseminated for, in such a situation genuine freedom would exist only for those who control the Press.

48. The economic success of the newspapers finds expression in their increased circulations and large turnovers. The British Press Commission presided over by Prof. O. R. McGregor said :

"The failure of the Press to keep pace with the requirements of society is attributable largely to the plain fact that an industry that lives by the sale of its products must give the public what the public will buy. A newspaper cannot, therefore, raise its standard far above that of the public and may anticipate profits from lowering its standard in order to gain an advantage over a competitor. This tendency is not always resisted as firmly as the public interest requires."

Generally, a contemporary successful newspaper tailors its contents to the demands of mass circulation with a mixture of news, features, serial stories and pictures, all kept brief, designed for casual reading, slanted to entertainment value and intended to attract as broad a cross-section of the potential public as possible. Its price is held low by the reservation of a large proportion of space for advertisements. The dependence of the Press—'quality' as well as 'popular'—on advertising revenue has been of overwhelming significance for its development. It has made circulation-size the essential condition of newspaper survival. Wealthy newspaper readers—especially if they control corporate property as well as their own individual wealth—count for more in the eyes of advertisers than ordinary wage earning readers, because they can buy more. A newspaper with a wealthy readership can, therefore, charge its

advertisers more for each reader than can a paper read mainly by people with middle range or low incomes. Thus the upper middle classes have more and a wider variety of papers directed specially to them than does the mass of the lower income group. The conditions of survival in the lower-income-group newspaper market imposes a prescription for content, style and orientation that varies very little. The eyes of the editors and the commercial Press managers behind them are on what they believe to be the common denominators of interest among the masses viz., sports, sex, advice on private problems, pictures, entertainment, etc. Market considerations have, therefore, become the prime determinants of newspaper content. Some are partial in their presentation of news in respect of the financial interests with which they are allied, biased against certain individuals and timid in exposing the shortcomings of those in power and authority. There is also a tendency to suppress facts which are unfavourable to their interests. Newspaper proprietors today dislike editors and editorial writers of strong personality. They prefer that their own personalities should be served by expert scribes who can be trusted to advocate whatever view the proprietors may wish to proclaim. In the old days many proprietors cared not only for the freedom of the Press—that is, the right of the Press to say whatever it thought the public interest required, without interference from Governments—but they cared also for freedom as a good in itself. Today they appear to care little for freedom in itself and do not perceive that by placing the Press in bondage to financial or "Commercial" interests they are helping to destroy journalism and to undermine public freedom. They very magnitude of their financial "interests" renders them peculiarly susceptible to the influence of doctrines which put the defence of property higher than the defence of freedom. Although the first duty of a newspaper must remain the supply of reliable and comprehensive news and honest editorial comment, it is obvious that, after all, the business is concerned chiefly with the value of its advertising and the cost of its newsprint. The Press has become too highly mechanised for the old system of complete editorial hegemony. These were the factors which caused Paul de Sury d'Aspremont to say<sup>10</sup> :

"The soul of a people ought to be in its Press, but the Press in the hands of a few financial magnates may murder its soul by corruption instead of directing it."

Balzac was not far from the truth when he said that the newspaper which should have been a shrine became an instrument, and from being an instrument became a business<sup>11</sup>. The question is whether commercial journalism can ever be free journalism, and, if not, how can the economic independence of the Press be preserved from crippling subservience to commercial and financial interests.

49. The joint stock company is the predominant type of ownership of newspapers in our country. It

<sup>10</sup> See his book *La Press a' Travers Les Ages*.

<sup>11</sup> See generally, Henry Wickham Stead : "The Press" (Penguin Books, 1938).



means generally the dominance of a few shareholders. The pattern of editorial working follows the pattern of ownership. When an industrialist owns a paper, it is subsidiary to some other industrial business or commercial interest. Justice Frankfurter said in this context that freedom of the Press can be achieved by freeing the Press from the clutches of Press barons. If freedom of expression has to play its basic role in our democratic polity, it must be freed from the steam-rolling of the commercial process so that it may mean maximum amount of freedom of expression for the maximum number of people. The most frightening aspect of the newspaper industry is its financial unsoundness and ill health. It may be satisfying to see that there are a few newspapers with expanding circulation. But the unfair practices which flourish, the manipulations which compel excessive dependence on advertisements and the wrong circulation figures which are claimed to obtain them are evidence of sickness in the industry. The Press being a prime necessity to society, when its machinery is concentrated only in the hands of a few who indulge in practices which are harmful to the health of the society the freedom of the Press is in danger as it is employed for a purpose for which it was never intended. In a system of adult suffrage, freedom of the Press becomes meaningless when it is not known on whose behalf and for whose benefit this freedom is exercised. Today, one talks of "the newspaper industry" but not of "the profession of journalism", and, questions like the relationship between the proprietor and the editor become very important. This is only natural in the present day complex industrial relations when a newspaper is run more as an industry than as an instrument serving a public purpose and the real power rests with ownership.

50. An important advantage of the dissociation of newspaper business from other lines of business would be that persons who control the newspaper concerns would be those who have some special interest in and probably capability in the newspaper industry. One of the difficulties in ensuring a professional outlook in industrial management in India has been that control over various industries is very often obtained and maintained through financial manipulations. Managements many times show less interest in the particular industry, its technology and its future growth etc., except in terms of the private profits that they can make out of it by using their control. Persons who control the newspaper world ought to have an intellectual and educational background. A person who has taken special interest in the newspaper business itself is likely to have greater understanding and competence in such matters. He is also more likely to fight for the principles for which he developed the newspaper. This is less likely to be the case with a businessman for whom the newspaper is either one among many businesses, or is an instrument to help his other business interests.

#### *The idea of delinking as enunciated in France*

51. We have come across an Ordinance dated 26th August, 1944 issued in France which contains

provisions intended to dissociate newspaper business from other kinds of business.\* Article 16 of this Ordinance made it obligatory for every publication enterprise employing more than 15 salaried persons to set up a technical committee consisting of the director of the publication and two representatives of the staff of the enterprise to manage the publication. Article 7 stipulated that if the majority of the capital of the enterprise belonged to one single person, he should compulsorily be the director of the publication. If this was not so, the director should compulsorily be either the President of the Board of Directors or one of the managers or the President of the Association, according to the type of the company or association bringing out the publication. Every Press enterprise was to have only one responsible director. Article 9 of the Ordinance laid down that in the case of a weekly with a circulation exceeding 50,000 or a daily with a circulation exceeding 10,000, no person could exercise the functions of director accessorially to any other function, whether commercial or industrial, which constituted the main source of his income and his profits. Further, the same person could not be a director of more than one daily newspaper.

#### *Legislation to delink Press from other business-interests*

52. We think that in the interest of the public it is necessary to insulate the Press from the dominating influence of other business interests. We propose the enactment of a law in the interest of the general public making it mandatory for persons carrying on the business of publishing a newspaper to sever their connections with other businesses to the extent indicated hereinafter by us. In this context we are using the expression 'person' in its legal sense so as to bring within its ambit individuals, companies, trusts, etc. The central idea underlying the legislation would be that a person carrying on the business of publishing a newspaper should not have, directly or indirectly, an interest, in excess of the 'prescribed interest', in any other business, or, be in a position of being controlled, directly or indirectly, by any other person or persons having an interest, in excess of the prescribed interest, in any other business. The expression 'business' should be defined to mean anything which occupies the time, attention and labour of a person for the purpose of profit but not any activity in the nature of exercise of a profession.

#### *Scope of the legislation*

53. We are conscious that it would be impracticable to make the proposed legislation applicable to all persons carrying on the business of publishing a newspaper at one stroke. We are of the view that, in the first instance, it should be enforced in the case of all persons who are in a position of controlling the

\*Many of the provisions of the Ordinance, however, have never been implemented. A letter dated 19th February 1982 received from the Press Attache of the French Embassy said in this connection: "Many of the provisions of the Ordinance of 26th August 1944 have never been implemented, particularly the ones intended to dissociate newspaper business from other kinds of business, and the ones which provide that one person cannot be the director of more than one newspaper" although they constitute the law of that country.



publication of one or more daily newspapers with the same or different titles, in one or more languages, the circulation of which, taken singly or cumulatively, exceeds one lakh copies per day. We do not think such a classification would be hit by Article 14. In *Gujarat v. Ambica Mills Ltd.*,<sup>12</sup> it was held that the legislature cannot be required to impose upon administrative agencies tasks which cannot be carried out on a large scale at a single stroke. If the law presumably hits the evil where it is most felt, it is not to be overthrown because there are other instances, to which it might have been applied. There is no doctrinaire requirement that the legislation should be couched in all embracing terms. The piecemeal approach to a general problem permitted by under inclusive classifications is justified because legislative dealing with such problems is usually an experimental matter.

### *Legislative Competence*

54. We think the Legislature is competent to enact the proposed law under Article 19 of the Constitution the relevant portion of which reads :

“19 (1) All citizens shall have the right—

(g) to practise any profession, or to carry on any occupation, trade or business;

(6) Nothing in sub-clause (g) of the said clause shall.....prevent the State from making any law, imposing, in the interest of the general public, reasonable restrictions on the exercise of the right conferred by the said clause. ....”

Such a law would be valid even if the person carrying on the business of publishing a newspaper is assumed to have the fundamental right of freedom of speech and expression under sub-clause (a) and the right to carry on a business under sub-clause (g) of clause (1) of Article 19. We do not think the proposed law would be violative of Article 19(1)(a) because its true character would be a reasonable regulation of the business aspect of the newspaper industry and not restriction of the freedom of speech and expression. We are going to discuss in detail, under the forthcoming section entitled “Price-page Schedule and News-to-advertisement Ratio” the inter-relationship between sub-clauses (a) to (g) of clause (1) of Article 19. We are going to emphasize that what one has to look into is the pith and substance of the legislation and not its collateral effect upon the freedom of speech and expression. In other words, if, in pith and substance, the legislation seeks to regulate the business activity, then, the indirect effect of that regulation upon the freedom of speech and expression would not be an abridgement of that freedom within the meaning of Article 13(2).

### *Daily newspapers with over one lakh circulation*

55. Our inquiry has revealed that in the year 1979, there were 32 daily newspapers\* having a circulation of over one lakh in the country and as many as 28 of these were being published by companies registered under the Companies Act.

### *Broad outlines of the proposed legislation*

56. The detailed scheme of the proposed legislation has to be worked out by competent draftsmen. We are indicating here only the broad outlines of the same. There are two aspects of the proposed legislation. Firstly, the person carrying on the business of publishing a newspaper should not have, directly or indirectly, an interest, in excess of the prescribed interest, in any other business. Secondly, the person carrying on the business of publishing a newspaper should not be in a position of being controlled, directly or indirectly, by any other person having an interest, in excess of the prescribed interest, in any other business. The expression ‘prescribed interest’ will have to be defined in this context. We think the aggregate interest of the person carrying on the business of publishing a newspaper in any other business or businesses should not exceed ten per cent of the total interest involved in the publication of the newspaper. For example, in the case of a company publishing a newspaper, its aggregate interest in other businesses should not exceed ten per cent of its subscribed share capital. On the other hand, person having interests in any other business or businesses should not, taken together, be allowed to have more than ten per cent interest in the business of publishing a newspaper. For example, in the case of a company publishing a newspaper, not more than ten per cent of its subscribed share capital should be allowed to be held by persons having interests in other businesses. These considerations will have to be kept in mind while defining ‘prescribed interest’ in relation to the two categories of persons involved viz., persons carrying on the business of publishing a newspaper and persons having interest in other businesses, and, the manner of computing the ‘prescribed interest’ in the case of different categories of ‘persons’ will have to be precisely laid down. While computing ‘prescribed interest’ it would be necessary to equate loan interest (excluding loans from public lending institutions such as banks) with share holding or other interests.

57. The proposed legislation will also have to work out a concept of ‘control’ by persons having interests in businesses other than that of the newspaper concerned. In the case of a company, theoretically, every shareholder generally has a right to vote in the general body meeting of the members of the company and thus exercise ‘control’ over the affairs of the company. However, in practice, most of the individual shareholders hardly take any

<sup>12</sup> (1974) 3 S.C.R. 760.

\*Multiple editions of a daily published from different centres have been taken as one newspaper.

interest in the matter. In fact, control may be exercised in various ways such as proprietary control, control by legal means, inter-member control arrangements, inter-company control, management control, voting trusts, irrevocable proxy, cross-holdings, circular holdings, etc. It is a matter of common knowledge that a person may be able to exercise control over a company without his name figuring anywhere in the books of that company. Such a person could be shareholder of a company 'A' which has a subsidiary company 'B' which in turn holds a company 'C' as subsidiary and through such a chain of holding companies and subsidiaries be a shareholder of the newspaper company. A concept of 'share holding interest' will have to be developed to work out the controlling interest of such a person over the newspaper company. While tracing the controlling interest from one company to another certain mathematical rationale could be employed. For example, if A holds 20 per cent of the share capital of X Ltd., in turn holds 12 per cent of the shares of Y Ltd., then A should be deemed to have a share-holding interest of  $20 \times 12$  divided by 100 per cent i.e. 2.4 per cent in Y Ltd. Ordinarily, this percentage would appear to be too insignificant when taken by itself but when A is a shareholder in many companies which ultimately hold share capital of Y Ltd. the aggregate of his interest may work out to a considerable percentage well above ten per cent which is the cut off limit suggested by us. A person may not be the actual holder of a share but be beneficially entitled to voting rights under an irrevocable proxy or a voting arrangement. Apart from voting rights, a person can have a beneficial interest in a share if he is a partner in a partnership owning the share or a person who has contracted to buy shares and he is in a position to enforce specific performance. To tack all such share holding interests it may be necessary to lay down that a person who is beneficially entitled to, or is one of the persons beneficially entitled to, any shares, shall be deemed (but not to the exclusion of any other person) to be in a position to exercise control of the voting rights in respect of those shares. One of the most prevalent forms of holding property in our country is through a benamidar. The newly added section 187C of the Companies Act, 1956, makes it obligatory that all benami holdings of shares must be declared both by the benamidar and the beneficial owner and section 187D enables investigation of benami share holdings. However nothing prevents a real owner from taking a collateral security in the form of a bond, promissory note or mortgage to serve as a lever to pressurise the benamidar from disclosing the real nature of the transaction. Consequently, any provisions for calculation of controlling interest should cover cases of benami or other beneficial holdings. The concept of 'control' which we contemplate is one which includes control as a result of or by means of agreements, benami transactions, trusts, arrangements, understandings and practices whether or not having legal or equitable force and whether or not based on legal or equitable rights. The concept embodied in section 2(g) of the MRTP Act with suitable additions and modifications may be employed by the draftsmen to give effect to the scheme of

legislation envisaged by us. It is of utmost importance to ensure that the shareholders as well as the directors of the newspaper company are not controlled, directly or indirectly, by other business interests.

58. Our inquiry in regard to ownership of newspapers has revealed that most of the newspaper companies bringing out large circulation newspapers are clustered within the umbra or, at any rate, within the penumbra of giant industrial and business houses. The leading newspaper company, Bennett Coleman, has the House of Sahu Jain as its 71.15 per cent shareholder and Bennett Coleman has in turn cross holdings in companies of Sahu Jain House. The Goenkas who control the Express Group of newspapers and the Sahu Jains who control the Bennett Coleman and Co. are related by marriage<sup>13</sup>. The newspapers brought out by them command a lion's share of elite readership in the country. The newspaper companies in turn have huge investments in concerns other than publication such as banking, jute, sugar, Ayurvedic medicines, automobile parts, electronics, plantation, steel rolling, groundnut oil mills, paper mills, textiles, agro-industrial units, etc. There is therefore need to safeguard against control of newspapers by other commercial interests through their associates. The proposed legislation should bar such an eventuality also by defining the term 'associate' much more comprehensively than in section 6 of the Companies Act. It should not be necessary that the associate must be doing any business as he may be a dummy or a man of straw who lends his name out of obligation to the person doing business.

59. In order to enable persons engaged in or connected with publication of existing daily newspapers who come within the purview of the proposed legislation to divest their interests in other businesses, a reasonable time limit may be prescribed by the law for the purpose. If the shares of a newspaper company are not readily purchased by eligible persons from the open market, such shares could be acquired and held by an autonomous body or agency to be specified by the legislation till they are purchased by eligible persons. The proposed legislation should provide a machinery for computing the sale price of the shares to be divested.

60. The proposed law should provide for filing of a declaration, once in six months, by every person coming within its ambit, stating that the newspaper is not being published in contravention of the provisions of the proposed legislation. The appropriate authority before which the declaration may be filed would be the Magistrate authenticating the declaration of the newspaper under section 5 of the Press and Registration of Books Act. On receipt of a complaint that the declaration filed by the newspaper undertaking is false,

<sup>13</sup> Shriyans Prasad Jain was the elder brother of Shanti Prasad Jain (P. 32 of the Vivian Bose Commission Report) and Mrs. Saroj Goenka is the daughter of Shriyans Prasad Jain married to Bhagwandas Goenka S/o. Ramnath Goenka (pp. lxxix and xc of IENS Press Handbook 1981).

the MRTP Commission or such other independent or autonomous authority should have the power to inquire into the matter and enter a finding on the complaint. If the declaration is found to be false, the Magistrate acting under the P.R.B. Act should have the power under section 8B thereof to cancel the declaration of the newspaper filed under section 5 of that Act. Accordingly, section 8B of the PRB Act should be amended to include breach of the proposed legislation as a ground for cancelling the declaration. This penalty would be in addition to the penalty attracted by a false declaration under section 176 of the IPC.

61. We are conscious that the newspapers which will come within the ambit of the proposed legislation are all quality newspapers rendering good service to the community. As the First Press Commission said, just as the public have a vital interest in the purity of their water supply, so they have an equally vital interest in the accurate and fair presentation of news and views. The profit motive does not serve the interest of the public in the area of supply of information which should be regarded as the most important public utility in a democratic society. "To make rules and conditions for a fairer game interferes with no honest freedom of the players; it improves the game for them and for the onlookers". In this connection we recall with approval the following observations of the Royal Commission on the Press presided over by Prof. O. R. McGregor<sup>14</sup> :

"There is thus a consensus, shared by almost all those who gave evidence to us, that the Press should neither be subject to state control nor left entirely to the unregulated forces of the market. We share that general accord, and much of our report is devoted to drawing out its implications."

62. Sarvashri Girilal Jain, Rajendra Mathur, Dr. H. K. Paranjape and Justice S. K. Mukherjea do not subscribe to the views expounded and the recommendations made in this section of the report.

#### (6) PRICE-PAGE SCHEDULE AND NEWS-TO-ADVERTISEMENT RATIO

63. Our recommendations with regard to the application of the Monopolies and Restrictive Trade Practices Act to the newspaper industry will only help to guard against an unduly large section of the Press in a given language or area being controlled by a few publishers. But other measures are necessary to ensure conditions of fair competition among newspapers.

64. A paper with a large circulation, because of its lower cost of production per copy, enjoys certain advantages over other papers with smaller circulation.

<sup>14</sup> William Ernest Hocking : Freedom of the Press, pp. 161-180.

<sup>15</sup> Final Report of the Royal Commission on the Press, cmd. 6810 (July, 1977), p. 11.

Similarly, a paper with large capital resources is free from certain handicaps which affect a paper with limited resources. A paper of long standing which has been able to build up a large and stable volume of advertisement revenue is in a very advantageous position as compared to others who have just entered the field. It is true that such economic advantages and handicaps exist in a number of industries but their presence in the newspaper industry is not conducive to the even and healthy development of the Press.

65. Newspapers serve as media for the free exchange of information and of ideas. The proper functioning of democracy requires that every individual should have equal opportunity, insofar as this can be achieved, to put forward his opinions. The freedom of the Press rests on the assumption that widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public. It is, therefore, necessary to reduce the differences due to economic advantages or other causes. Newcomers should be enabled to start publication with a fair chance of achieving success. Fixing a minimum price at which newspapers of a particular size could be sold, is the most effective measure to bring about an atmosphere of fair competition.

66. Advertisements occupy a substantial proportion of space in newspapers. It is imperative to ensure that the reader gets an adequate proportion of news and views and that advertisements are not reduced in effectiveness because there are too many of them. It is the reader who pays the net cost of the paper, partly as its price and partly through the advertised goods that he purchases.

67. The publisher of a newspaper realises revenue mainly from two sources, viz., the sale of the paper and the sale of advertisement space in it. There is, however, a third factor involved and that is the resale price of the copy as waste paper. As the price of waste paper is very high in our country, an excessive number of pages in each issue would have the effect of reducing the price of the paper to the reader, and is therefore used by the publisher as a means of competing with other papers. Every newspaper has to rely on advertisement revenue for making both ends meet. To the extent a paper can get more advertisement revenue, it can afford to reduce its price and thus gain an advantage over others. However, greater dependence on advertisement revenue exposes a newspaper to pressure from advertisers.

68. It was on the premises mentioned in the preceding four paragraphs that the First Press Commission suggested prescription of a schedule laying down—

- (a) the maximum number of pages that could be sold for the price;
- (b) the minimum number of pages that must be offered for the price; and
- (c) the minimum of news and editorial matter that each issue must contain.

As regards (c), the Commission was firmly of the view that the quantum of advertisements should not exceed 40 per cent of the total area.

69. The importance of advertisement revenue in newspaper economics cannot be over-emphasised. There is a great imbalance in the flow of advertisement revenue to the newspapers in the country which has been vitiating the atmosphere of fair competition. We have dealt with the statistics relating to advertisement revenue in greater detail in Chapter IX.

70. As mentioned by us in Chapter IX, an estimate prepared on the basis of the data made available by the survey of newspaper contents puts the total amount of advertisement revenue (net of discount) of all daily newspapers in the country during the year 1981 at Rs. 176.94 crores. The break-up of this amount for dailies in different circulation ranges is as follows :

Circulation range	Advertisement Revenue (in Rs. crores)	Share of total advertising through dailies (in per cent)
Very Big (above 1,00,000)	91.75	51.85
Big (50,000 to 1,00,000)	16.65	9.41
Medium (15,000 to 50,000)	46.16	26.09
Small (less than 15,000)	22.38	12.65
TOTAL	176.94	100.00

71. The impact of advertisement revenue on the expansion of circulation and consumption of newsprint is self-evident. During the year 1979-80, daily newspapers in the country received allocation of newsprint to the tune of 2,76,809.49 tonnes. The break-up of this quantity is as under :—

Sl. No	Category	No. of dailies	Quantity of newsprint allocated (in tonnes)	Percentage
1.	Big English dailies	17	69,231.29	25.02
2.	Big Indian language dailies	47	1,18,983.53	42.98
3.	Medium dailies	125	65,856.01	23.79
4.	Small dailies	393	22,738.66	8.21

72. We have already seen in Chapter II that some of the leading English dailies offer a much larger number of pages than dailies as a whole. One reason for this is that the bigger dailies, particularly the big English dailies are securing a disproportionately larger chunk of advertisement revenue and, therefore, they

are in a position to offer more pages for about the same selling price. For example, the *Hindustan Times*, New Delhi which is the largest circulated single edition English daily in the country has an average of 22 pages in a single issue in the first half of November 1981. For the same period, *Ananda Bazar Patrika*, Bengali daily of Calcutta, which is the largest circulated of all single edition dailies in all languages, offered on an average 8.2 pages. The price of both the *Hindustan Times* and *Ananda Bazar Patrika* is 60 paise on week days as well as on Sundays.

73. We came across allegations that some newspapers or their distributors or vendors are selling newspapers as waste straightaway as there was very little difference between the amounts realised by selling copies to readers and by selling them as waste paper. In an article on newspaper economics published in the *Financial Express* of 22nd August, 1980, Shri Prem Shankar Jha pointed out :

“While seven 20-page newspapers weigh a kilogram, a housewife buying a 20-page paper for 40 paise can resell it for 30 paise, and pay a net price of only 10 paise. The corresponding cost to her of the 40 paise 12-page paper is around 22 paise. Even if the eight-page paper is sold to her at 30 paise, the resale price is so low (around 12 paise) that the paper still costs her almost double of the bumper 20-page paper. While the housewife can be forgiven for being influenced by such calculations, the trouble is that the news-agent can make them too. Most newspapers either do not take back unsold copies or take back only a small percentage. Faced with the threat of being left with unsold copies, agents prefer to push the sales of the bulkiest paper in order to minimise their losses if they have to sell them as waste. So badly distorted has the pricing structure of inputs and outputs become that in the case of a 20-page paper, an agent stands to make a small profit by selling it as waste for 30 paise (the publisher receives no more than 27-28 paise from him) even if he cannot sell it to a reader. Needless to say, the small papers enjoy no such advantages.”

74. With the liberalised policy of import and distribution of newsprint from March 1977, the big newspapers have increased the number of pages substantially. However, the latest Newsprint Allocation Policy has put a stop to further increase in the number of pages of newspapers which had more than eight pages in 1979. But as the policy is based on the page-level of 1979, which reflected the policy of liberalisation, some of the big newspapers are able to carry a large number of pages. The ORG Survey found that 30.7% of total advertising in terms of space in the Press was through very big publications with over one lakh circulation. Detailed statistics in respect of the increase in the space devoted

to advertisements have been given in Chapter IX but the following examples will illustrate the trend :

Sl. No.	Name of the newspaper	Percentage of space devoted to advertisements in the year		
		1953	1972	1981
1.	<i>Statesman</i> (English), Calcutta	41.2	53.0	67.0
2.	<i>Hindustan Times</i> (English), New Delhi	25.3	54.2	63.0
3.	<i>Times of India</i> (English), Bombay	35.8	53.5*	60.0*
4.	<i>Ananda Bazar Patrika</i> (Bengali), Calcutta	22.5	50.4	58.6
5.	<i>Assam Tribune</i> (English), Gauhati	22.5	47.0	58.1
6.	<i>Indian Express</i> (English), Madras	26.7	46.0	55.0

\*For Bombay and Ahmedabad editions of the *Times of India* as a whole.

That there is wide variation in advertisement rates of different categories of newspapers is clear from the following :

Sl. No.	Category of newspaper	Percentage of total advertisement space	Percentage of total advertisement value
1.	Very big, with over one lakh circulation	30.7	61.8
2.	Big, with a circulation between 50,000 and one lakh	20.3	15.4
3.	Medium, with circulation between 15,000 and 50,000	30.6	16.5
4.	Small, with circulation between 5,000 and 15,000	14.5	5.4
5.	Very small, with circulation less than 5,000	3.9	0.9
		100.0	100.0

There is need to check the excessive application of space to advertisements especially when newsprint is a scare commodity. That apart, it would be unfair to the reading public if the newspapers devote a large proportion of space to advertisements.

75. The return per paise to a newspaper buyer in terms of the page area he gets is much higher if he buys a bulky newspaper than if he purchases a paper with fewer pages. In 1979, the return per paise to the buyer of a big newspaper was 714.79 sq. centimetres of page area, while it was only 529.47 sq. centimetres for the medium and 320.19 sq. cm. for the small category newspapers. The following table

gives the figures in this behalf for the years 1965—1979 :

Sl. No.	Year	Square centimetres per paise		
		Big	Medium	Small
1.	1965	1819.71 (100.00)	1499.12 (100.00)	908.77 (100.00)
2.	1970	1650.01 (90.67)	1425.45 (95.09)	693.25 (76.28)
3.	1975	659.45 (36.24)	534.63 (35.66)	382.73 (42.12)
4.	1976	675.09 (37.10)	590.39 (39.38)	390.60 (42.98)
5.	1977	696.57 (38.28)	551.70 (36.80)	370.64 (40.78)
6.	1978	660.58 (36.30)	571.02 (38.09)	327.30 (36.02)
7.	1979	714.79 (39.28)	529.47 (35.32)	320.19 (35.23)

(Source : RNI's Annual Reports, Part I. Figures within brackets indicate the returns to the newspaper buyer as a percentage of what he got in 1965).

76. We did not, however, find truth in the allegation that some newspapers deliberately increase the print order for bulky issues carrying a high proportion of advertisements with a view to disposing of part of the supply as waste paper and to claim increased circulation which would attract higher advertisement tariff. This conclusion is based on a study of 11 newspapers the details of which are given in Appendix X.16.

77. As the Enquiry Committee on Small Newspapers observed, whereas the selling price of an industrial product is always above its cost of production, that of a daily newspaper is much below its cost of production and, how much below it is in a given case, is determined by the volume of advertisements carried by it. As already pointed out, the re-sale value of old newspapers in our country is very high and is an important consideration that weighs with an average reader in making his choice of a newspaper. In view of this a newspaper giving more pages for the same price commands a larger circulation which also enables it to get more advertisements which in turn puts it in a position to be able to further reduce its selling price. In most other industries, in spite of the existence of a few big units, a new entrepreneur can enter the field because the big units cannot reduce the sale price of the product below its cost of production. As soon as above, this is not true of the newspaper industry. There are other handicaps too ! Apart from the physical limitations on the market of a daily newspaper, a stale issue cannot be sold as newspaper. A new entrant's survival itself may be rendered difficult if the established units in the field raise the number of pages offered by them for the same selling price as that of the new entrant. For the freedom of the Press to be effective, the present degree of dependence of newspapers on advertisements has to be lessened and the importance of circulation as a principal source of revenue must be enhanced.

78. Looking to the prevailing condition of the Press today, we are convinced that the prescription of a price-page schedule with a news-to-advertisement ratio is absolutely essential for promoting fair competition among the existing units and for providing a fair chance of success to newcomers in the interest of diversification of the sources of dissemination of information so as to provide for expression of a broad spectrum of views. While arriving at this view we have not been oblivious of the fact that those papers which are to-day attracting a disproportionately large amount of advertisement revenue are utilizing it to a certain extent for improving their quality and subsidising the selling price for the benefit of the readers. We suggest that an expert committee be set up to work out a price-page schedule after taking into account the present-day economics of publishing a newspaper. As regards the proportions of news and advertisement in a paper, we recognise that the advertisement rates charged by newspapers vary very widely. In view of the need to help the small and medium newspapers overcome the disadvantage of lower advertisement rates and smaller number of pages we recommend that the news-to-advertisement ratio should be fixed at 60 : 40 for big, 50 : 50 for medium and 40 : 60 for small newspapers.

79. Before we consider the legal aspect of prescribing a price-page schedule with a news-to-advertisement ratio we may note briefly the vicissitudes through which this proposal of the First Press Commission has passed during the last 27 years.

80. Parliament enacted the Newspapers (price and Page) Act in 1956 to regulate the prices of newspapers in relation to their pages and sizes and to regulate the allocation of space for advertising matter. The Daily Newspapers (Price and Page) Order, 1960, made under the said Act, fixed the number of pages that could be published by a newspaper according to the prices charged. However, both the Act and the Order were struck down by the Supreme Court in *Sakal Newspapers v. Union*.<sup>13</sup>

81. The need for a price-page schedule was reiterated by the Enquiry Committee on Small Newspapers in 1965 by a five to four majority in the following terms :

“Competition is fair when the units function in similar circumstances. In the case of daily newspapers, which, by their very nature, do not possess a long-term reading value, the choice of a reader is governed, among other things, by the number of pages that a newspaper gives for the same price. Therefore, the only way to create a condition of fair competition is to fix a minimum price at which a paper of a particular size can be sold, so that the determining factor influencing circulation will not be the number of pages and the volume of advertisement, but the quality of editing, production and news. . . .”

The Committee was of the view that not more than 40 per cent of the space in a newspaper should be occupied by advertisements.

82. An excise duty of two paise per copy was imposed by the Government on newspapers having daily circulation of more than 15,000 with effect from 15th November, 1971. Under the pretext of covering the levy of this duty, many newspapers in the country disproportionately raised their selling price. This led hawkers of newspapers to demand a proportionate increase in their commission which was not acceded to by the management of newspapers. The hawkers in the eastern sector went on strike creating a serious situation. The Government made an appeal to the newspapers not to increase the selling price by more than 2 paise but this went unheeded by a large section of the Press. The Government, therefore, promulgated the Newspapers (Price Control) Act, 1972 which became effective from 26th May, 1972 and was in force for a period of two years only from that date. Although section 3(1) of this Act empowered the Government to determine the maximum prices which could be charged for newspapers, the provision was not invoked during the currency of the Act.

83. The Fact Finding Committee on Newspaper Economics which submitted its report in 1975 was opposed to the price-page schedule as it felt that with the shortage of newsprint and the large increase in its price there was no longer any danger of a large paper trying to outsell a small paper by charging a low price. The Committee agreed with the general principle that a newspaper should devote the greater part of its space to news and that a 60 : 40 ratio between news and advertisements would be commendable. However, the Committee advocated a news-to-advertisement ratio of 50 : 50 so long as newsprint was in short supply.

84. In order to understand and appreciate the decision of the Supreme Court in *Sakal Newspapers* striking down the newspapers (Price and Page) Act, 1956 and the Daily Newspapers (Price and Page) Order, 1960 it is necessary to refer to two other earlier decisions of the court which have a bearing on the interpretation of the Constitutional provisions.

85. In *All India Bank Employees' Association v. National Industrial Tribunal & Others*<sup>14</sup> the Supreme Court said that the right to form a trade union—which is an association—was subject not only to the reasonable restrictions mentioned in Article 19(4) but also that the business activities of the trade union were subject to the reasonable restrictions mentioned in Article 19(6). The Court said :

“ . . . Applying what we have stated earlier to the case of a labour union the position would be this : While the right to form a union is guaranteed by sub-cl. (c), the right of the members of the association to meet

<sup>13</sup> (1962) 3 S.C.R. 842.

<sup>14</sup> (1962) 3 S.C.R. 269 at 288-289.



would be guaranteed by sub-cl.(b), their right to move from place to place within India by sub-cl.(d), their right to discuss their problems and to propagate their views by sub-cl.(a), their right to hold property would be that guaranteed by sub-cl.(f) and so on—each of these freedoms being subject to such restrictions as might properly be imposed by cls. (2) to (6) of Art. 19 as might be appropriate in the context. It is one thing to interpret each of the freedoms guaranteed by the several Articles in Part III in a fair and liberal sense, it is quite another to read each guaranteed right as involving or including concomitant rights necessary to achieve the object which might be supposed to underlie the grant of each of those rights, for that construction would, by a series of ever expanding concentric circles in the shape of rights concomitant to concomitant rights and so on, lead to an almost grotesque result.”

86. The above decision was followed in *Raghubar Dayal Jai Prakash v. The Union of India and Others*<sup>15</sup>. The Court said that an association formed to do business in forward contracts was subject not only to those restrictions pertaining to association under Article 19(4) but also to those which could be imposed on that business under Article 19(6).

87. The principle laid down in the decisions referred to above was also followed in *D.A.V. College v. Punjab*<sup>16</sup>, which was decided in 1971, i.e., after the decision in *Sakal Newspapers*.

88. These decisions, therefore, clearly establish that where a person claims more than one fundamental right conferred by Article 19, he would also be subject to the restrictions which are appropriate to the fundamental rights claimed by him. Since the publisher of a newspaper has the right to freedom of expression, a law can put those restrictions on his right which are permitted by Article 19(2). But since he also carries on a business in the matter of publishing the newspaper, the law can put reasonable restrictions on that right in the interest of general public as envisaged in Article 19(6). Such restrictions might affect his right to freedom of speech and expression and, therefore, the exercise by the legislature of its undoubted power under Article 19(6) might apparently conflict with the right conferred under Article 19(1)(a). In such a case, the solution to be thought of is to decide what exactly is the pith and substance of the legislation. In other words, the appropriate mode for resolving the conflict is to look at the true nature and character of the legislation and decide whether it is really a restriction upon the freedom to carry on the business or an indirect attempt to suppress his freedom of expression. The test is the pith and substance of the matter and not the indirect effect of the legislation.

89. In *Gallager v. Lynn*<sup>17</sup> the doctrine of pith and substance has been applied even though the question arose under a unitary constitution. The House of Lords laid down in this case that the Court has to look at the true nature and character of the legislation, i.e., the pith and substance of the legislation. If, on the view of the statute as a whole, the substance of the legislation is within the expressed powers, then it is not invalidated if incidentally it affects matters which are outside the authorised field. The legislation must not under the guise of dealing with one matter, in fact, encroach upon the forbidden field. Nor is the Court ought to look only at the object of the legislator.

90. The decision in *Gallager v. Lynn* was followed by the Federal Court in *Subrahmanyam Chettiar v. Muthuswami Gounder*.<sup>18</sup>

91. The Constitution confers several fundamental rights upon the citizen under Article 19. Article 19(1)(a) speaks of the fundamental right of freedom of speech and expression. A person carrying on the business of publishing a newspaper, no doubt, exercises this freedom of expression. At the same time he is also engaged in a business activity for the carrying on of which he can also claim the right to form associations, the right to enter into partnership with others in carrying on his business, the right to move freely throughout the territory of India and the right to reside and settle in any part of the territory of India. Thus, if a publisher of a newspaper claims several fundamental rights under Article 19 in respect of his business, he cannot claim exemption from the restrictions to which each of those rights is subject. The fact that the publisher carries on a business would attract the restrictions envisaged in Articles 19(4), 19(5) and 19(6).

92. Therefore, when the Constitution confers on a citizen several fundamental rights, the power to make laws which impose restrictions in public interest appropriate to each fundamental right will be attracted. And, if the true nature and character of the law made in the exercise of that power is that it imposes reasonable restrictions on the right to carry on a business, then it is not invalidated if it affects incidentally matters which are outside this authorised field. Any other construction would lead to absurd results and would nullify the expressed powers conferred by the Constitution on the legislatures. If a publisher of a newspaper claims six fundamental rights, it is only proper that he should be subject to all the restrictions which are appropriate to the fundamental rights claimed.

93. It would seem that in *Sakal Newspapers* this aspect of the matter was incorrectly decided. In this case the Court proceeded on the following basis :

“It may well be within the power of the State to place, in the interest of the general public,

<sup>15</sup> (1962) 3 S.C.R. 547.

<sup>16</sup> (1971) Supp. S.C.R. 688.

<sup>17</sup> (1937) A.C. 863 (H.L.).

<sup>18</sup> (1940) F.C.R. 188.



restrictions upon the right of a citizen to carry on business but it is not open to the State to achieve this object by directly and immediately curtailing any other freedom of that citizen guaranteed by the Constitution and which is not susceptible of abridgment on the same grounds as are set out in Clause (6) of Article 19. Therefore, the right of freedom of speech cannot be taken away with the object of placing restrictions on the business activities of a citizen. Freedom of speech can be restricted only in the interests of the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence. It cannot, like the freedom to carry on business, be curtailed in the interest of the general public. If a law directly affecting it is challenged it is no answer that the restrictions enacted by it are justifiable under clauses (3) to (6). For, the scheme of Article 19 is to enumerate different freedoms separately and then to specify the extent of restrictions to which they may be subjected and the objects for securing which this could be done. A citizen is entitled to enjoy each and every one of the freedoms together and clause (1) does not prefer one freedom to another. That is the plain meaning of this clause. It follows from this that the State cannot make a law which directly restricts one freedom even for securing the better enjoyment of another freedom."

Based on the above reasoning, the Court held that the provisions of the Newspaper (Price & Page) Act, 1956, and the Daily Newspaper (Price & Page) Order, 1960, were violative of the right guaranteed under Article 19(1)(a) inasmuch as :

- (i) the freedom of the newspaper to charge whatever price it chose had been taken away.
- (ii) reduction in the size of the newspaper necessitated by the provisions would have the effect of compelling it to restrict the dissemination of news and views;
- (iii) the newspaper's right to publish any number of pages for carrying its news and views (unless it raised the selling price as provided in the Order) was affected; and
- (iv) the curtailment of the area of advertisement in a newspaper would have the effect of pushing up the selling price of the newspaper which in turn would bring down the circulation of the newspaper.

94. This statement of law is directly contrary to the principles enunciated in the previous cases. If restrictions can be put on the business aspect of the communication under Article 19(6) in the interest of the

general public, the mere fact that those restrictions leave an impact upon the freedom of speech is quite immaterial for adjudging the validity of the law. For, as we said earlier, we have to look to the pith and substance of the law in order to decide whether it is a regulation or a restriction in the interest of the general public on the business aspect of a newspaper undertaking.

95. The further question is whether the restrictions imposed by the provisions of the Newspaper (Price & Page) Act, 1956 and the daily Newspaper (Price and Page) Order, 1960, were in the interest of the general public under Article 19(6). The avowed purpose of the legislation, as stated by the First Press Commission was to prevent unfair competition among the newspapers and also to reduce the differences due to economic advantages and other causes and to enable newcomers to start a newspaper with a fair chance of achieving success. In other words, the object of the Act was to prevent unfair competition so that other newspapers may be enabled to run in a fair atmosphere.

96. Competition is essential in the newspaper industry and that is why legislation directed against monopoly in the newspaper industry has been upheld as valid in the U.S.A. in spite of the fact that such a law would affect the freedom of the Press. In *Citizen Publishing Co. v. U.S.*<sup>19</sup> Black J., said that the First Amendment to the U.S. Constitution rests on the assumption that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public and that a free Press is a condition of a free society. Therefore, a legislation which has its object to promotion of competition, is directed to improve the dissemination of news from diverse aspects which is one of the essential elements implicit in the concept of the freedom of speech and of the Press. If this is so, a law whose object it is to promote competition cannot be characterised as a law to thwart the freedom of expression. It is a law in the interest of the general public and even if it is construed as a restriction on the freedom to carry on business under Article 19(6), its operation in the freedom of speech cannot be construed as a restriction on that right but, if at all, only as a permissible regulation of that freedom.

97. The Supreme Court has laid down the test applicable in the area of free speech in *Express Newspaper v. Union*<sup>20</sup>. In that case the law impugned was the Working Journalists Act enacted under entry 24, List III of the Seventh Schedule to the Constitution : "Welfare of labour including conditions of work . . .". The Supreme Court repelled the challenge to it under Article 19 (1)(a) by observing that the direct effect of the Act was not to abridge the freedom of the Press. The principles of wage fixation which the Court approved involved the consequence that the weakest units in the newspaper industry might have to close down with the consequence that the freedom

<sup>19</sup> 394 U.S. 131, 139-40.

<sup>20</sup> (1959) S.C.R. 12.

of the Press might be affected. However the impugned Act, judged by its provisions, was not such a law but was a beneficent piece of legislation intended to regulate the conditions of service of the working journalists and the consequences aforesaid could not be the direct and inevitable result of it. Although there could be no doubt that it directly affected the Press and fall outside the categories of protection mentioned in Article 19(2), it had not the effect of taking away or abridging the freedom of speech and expression of the petitioner and did not, therefore, infringe Article 19(1)(a).

98. The test enunciated in *Express Newspapers* was applied subsequently in *Naresh Shridhar Mirajkar v. Maharashtra*,<sup>21</sup> where an order made by Tarkunde, J., prohibiting publication of the evidence of a witness was impugned as violating Article 19(1)(a).

99. Even if the pith and substance doctrine is not literally applicable, the provisions of a law prescribing price-page schedule can only be deemed to be regulatory as was held by Porter, J., in the analogous case of freedom of commerce embodied in the Australian Constitution, in *Commonwealth of Australia v. Bank of New South Wales*.<sup>22</sup> There is no warrant for the assumption that any law or executive action authorised by law which increases the price of a newspaper, or, which diminishes the circulation would necessarily violate the freedom under Article 19(1)(a). Entry 92 in List I of the Seventh Schedule confers on Parliament the power to make laws imposing a tax on the sale or purchase of newspapers and on the advertisements published therein. It may be noticed that the restrictions which can be put on the fundamental rights under Articles 19(2) to 19(6) do not refer to tax at all. But a tax is a restriction and ordinarily it is a reasonable restriction on business. A tax on the sale of newspapers might diminish the circulation of the newspaper by increasing the cost to the purchasers. So also a tax on advertisements published in the newspaper might diminish the revenue from advertisements by which the cost of the newspaper might go up. Consequently, such a tax, being a restriction, will affect the freedom of the Press. For this reason it cannot be held that a restriction by the imposition of tax on the sale of newspaper or on advertisements published therein is a law in respect of the freedom of the Press; such a law is, in pith and substance, a revenue law which imposes reasonable restriction on the business of publishing newspapers. Just as the principles of wage fixation which involved the consequence that the weakest units of the newspaper industry might have to close down with the further consequence that the freedom of the Press might be affected were nevertheless held by the Supreme Court to be valid under Article 19(1)(a), so also, it was open to the Supreme Court to uphold the validity of that law enabling prescription a price-page schedule on the ground that the provisions of that law imposed reasonable restriction on

the carrying on of the business of the newspaper industry and that it was not a law in respect of the freedom of the Press but was a law in respect of the business of carrying on the newspaper undertaking<sup>23</sup>.

100. As regards regulation of advertisement space in newspapers, we have already stated the proposition that a mere fall in circulation on account of a law regulating the business or commercial aspect of speech would not be hit by 19(1)(a). It may further be noted that 'advertisement' was held to be 'commercial speech' in *Hamdard Dawakhana v. Union*<sup>24</sup> and therefore it did not come within the purview of Article 19(1)(a). This case was not even referred to in *Sakal Newspapers* in this context. If advertisements are not entitled to the protection of Article 19(1)(a), then the extent of advertisement in a newspaper can be regulated by a law without offending that Article. It is, however, said that in U.S.A. the trend of judicial decisions is that 'commercial speech' is not different from 'political speech'. While it is true that the U.S. Supreme Court has in a series of rulings held that 'commercial speech' also partakes the character of 'political speech' and is entitled to protection of the guarantee of freedom of speech and of the Press,<sup>25</sup> the latest decision of that Court in *Friedman v. Rogers* indicates<sup>26</sup>.

"Although the First Amendment affords commercial speech a limited measure of protection, the State does not lose its power to regulate commercial activity deemed harmful to the public whenever speech is a component of that activity; modes of regulation of that might be impermissible in the realm of non-commercial expression are allowed in the area of commercial speech.

"For purposes of the First Amendment some forms of commercial speech regulation are permissible; restrictions on the time, place or manner of expression are permissible provided they are imposed without reference to the content of the regulated speech, that they serve a significant governmental interest and that in so doing they leave open ample, alternative channels for communication of the information."

Therefore, there is no question of a law regulating the extent of advertisements in a newspaper violating the freedom under Article 19(1)(a).

101. Some provisions of the Newsprint Allocation Policy for the year 1972-73 imposing a 10-page limit on newspapers to meet the shortage of newsprint which were assailed in *Bennett Coleman and Co. v. Union*<sup>27</sup> were struck down by the Supreme Court following the

<sup>21</sup>. (1966) 3 S.C.R. 744, 764.

<sup>22</sup>. (1950) A.C. 235.

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<sup>23</sup>. See generally, H. M. Seervai : *Constitutional Law of India*, Vol. I, 2nd Ed., pp. 453-463.

<sup>24</sup>. (1960) 2 S.C.R. 671.

<sup>25</sup>. See 421 U.S. 809; 425 U.S. 748; 54 L. Ed. 2d 97 Z 269.

<sup>26</sup>. 440 U.S. 1 (1978).

<sup>27</sup>. (1973) 2 S.C.R. 757.

decision in *Sakal Newspapers*. We have already given our reasons why the decision in *Sakal Newspapers* merits a review. We have also indicated how laws for the welfare of labour, laws restraining monopoly and laws imposing a tax on the sale or purchase of newspapers or on advertisements published therein cannot be declared void merely because they would, to some extent, regulate the freedom of speech and of the Press.

102. Even if an amendment of the Constitution is required to give effect to our proposals regarding price-page schedule and news-to-advertisement ratio, we are of the view that such an amendment will not destroy or damage the basic structure of the Constitution. No doubt Article 19(1)(a) has been held to be a basic structure of the Constitution; but a law prescribing a price-page schedule or news-to-advertisement ratio is not a measure which will destroy or damage that freedom; on the contrary, its object being promotion of competition and prevention of monopoly, the law will advance freedom of speech and expression. S/Shri Girilal Jain, Rajendra Mathur, S. K. Mukherjea and H. K. Paranjape are opposed to the prescription of price-page schedule and news-to-advertisement ratio.

#### (7) INTERNAL RELATIONS AND RIGHT OF REPLY

103. In terms of investments in men and machinery and its operations, a modern newspaper unit is like any other commercial or industrial enterprise. Complex problems have arisen due to recent technological advances. It is no longer possible for any single person to exercise control over all aspects of a big newspaper unit. Modern knowledge is outpacing editorial organisation and the function of the newspaper is changing with the changing pattern of society.

104. The interest of the owner of a newspaper generally lies in its economic success. However, commercial considerations ought not to override editorial considerations. The freedom of the owner is only a part of the freedom of the Press. The owner has the basic right to have his point of view expressed through the newspaper. In the case of a large newspaper operating in modern conditions, this right of the owner should not extend beyond laying down the policy of the newspaper and the appointment of an editor of his choice. But the editor chosen ought to be a man of known ability and integrity and should have sufficient authority to conduct the newspaper in public interest while following the policy laid down by the owner.

105. Journalistic freedom is the heart of freedom of the Press. To maintain a free traffic in ideas for the good of the community and to discharge his social function, the journalist should have an atmosphere of freedom. But the unity of purpose of a newspaper can be ensured only by the concentration of ultimate responsibility in one particular person and by the development of a spirit of cooperative enterprise whereby everyone realises that he is working towards a common goal.

106 The effective exercise of journalistic freedom depends largely on the editor. The freedom and independence of the editor is the crux of the matter. He represents the editorial side of the newspaper and his status and independence mean the status and independence of the editorial staff. The editor depends on the editorial staff to maintain his freedom and independence. The editing of big newspapers cannot be done or supervised by one person. Proper distribution of responsibility is inescapable. The adequacy of the editor can be sustained only by proper delegation of authority, viable distribution of work and by the habit of the widest possible consultation. It is only the cooperative endeavour of the entire editorial staff that can make for standards in a newspaper. However, the ultimate responsibility in the production of a newspaper should vest in the editor.

#### *Recommendations of the First Press Commission*

107. The First Press Commission noted a decline in the status of the editor, particularly in the daily newspapers. It said that the appointment of an editor should be attended with the execution of a contract of employment laying down the general policy of the paper in as precise terms as possible and also containing provisions for the determination of editorial policy on matters not covered specifically by the contract and for settlement of any differences arising therefrom. To provide security of employment for the editor the Commission suggested that the period of notice for termination of the services of an editor should be not less than three months during the first three years of service and not less than six months thereafter and also that he should be entitled to compensation for involuntary unemployment, the measure of such compensation being determined by an independent authority. In order to avoid undesirable pressures being brought to bear on the editor, the Commission suggested that the editor should be independent of the persons responsible for the economic administration of the paper, viz. the proprietor or his agent or representative, the managing director or the general manager. Commenting on the institution of 'managing editor' the Commission recommended that in the case of larger newspapers there should be separation of the functions of the manager from those of the editor. The Commission said that the editor should have general supervisory control over the whole paper so that there was no room for subordination of editorial requirements to the convenience of the management.

#### *Present Position*

108. We find that, by and large, the policy of the newspaper is not reduced to writing and if there are differences of opinion between the editor and the proprietor over a matter of policy the former is obliged to quit. The status of the editor varies from paper to paper, and, in many cases, it is not what it should be. It appears that in many cases editors do not have enough say in the selection and appointment of journalists staff and assignment and professional duties to them.

### *Attempted safeguards*

109. An instance of proprietorial interference in editorial functions came to public view during 1974-75 when a controversy arose between the editor of a prominent English daily published from the capital and the Chairman of the newspaper company. The Chairman of the Company questioned the propriety of the editor in abridging the material sent to him for publication in the paper by a functionary of another company and also about publication of certain reports in the newspaper running down a contemporary political figure. There was also friction between them over another company's inducement through offer of advertisement in return for forbearance in publishing some material in a connected evening paper under the charge of the same editor. In order to safeguard the position of the editor some persons approached the Press Council but the Chairman of the Company challenged the jurisdiction of the Press Council to adjudicate in the matter. The High Court upheld the jurisdiction of the Press Council and issued an order forbidding the Company from acting against the editor. However, following this controversy, it appears that the services of the editor were dispensed with by the Company. In the course of its judgment<sup>28</sup> the High Court observed that the selection of news from all corners of the world and its truthful, objective and comprehensive presentation is the sole responsibility of the editor. The enunciation of the policy of the paper by its owner is restricted to comments and criticism only. The court said that the policy has to be laid down by the owners before they choose their editors. If they so wish, they can lay down a partisan policy for the newspaper but the readers would know it in advance. Once the policy is laid down and the editor chosen, the editor has to be left to work independently within the frame-work of that policy. His authority to select the contents of the newspaper is not confined to news only but extends to views and comments which may be written or expressed by himself or others.

110. A commendable experiment was made in the 1960's for voluntary interposition of public trustees between editor and managers of a big English daily published from Calcutta. The former British owners of that paper sold the shares to a consortium of Indian Companies with no one holding more than 13 per cent shares and a provision was made in the articles of association of the newspaper company for appointment of a board of trustees to act as umpire in disputes arising between the editor and management. This device was thought of primarily to ensure integrity in the editorial department and to prevent misuse of the newspaper for promoting the interests of the shareholding companies. The board of trustees consisted of eminent public men. It appears the arrangement worked satisfactorily for a while and on occasions the board of trustees upheld the position of the editor in disputes brought before them by the board of directors of the Company. Ultimately the board of directors of the company abolished the board of trustees and it

seems that as a result of the controversy arising therefrom the services of the editor were also terminated by the board of directors of the company.

111. A proposal for setting up a board of editorial trustees was also mooted in the 1970's in the case of the prominent English daily published from the capital referred to in para 109 *ante*. The idea was that the trustees would not determine the editorial policy of the paper but would have opportunity to discuss its implementation. It appears the Chairman of the company owning the newspaper foresaw problems in the proposed arrangement. However the proposal was widely discussed and the Chairman of the Press Council got in touch with the Chairman of the newspaper Company to secure his support for the idea but the same was ultimately turned down by the latter. When the controversy referred to in para 109 *ante* arose between the Chairman of the newspaper company and the editor of this newspaper during 1974-75, the editor renewed the earlier idea of the board of editorial trustees with an offer to step down from his position in case the proposal was accepted. But once again the Chairman of the company turned down the proposal as unworkable.

### *Experiments in U.K.*

112. Some recent developments in U.K. are of special interest to us in this area. In January 1981, the U.K. Government laid down stringent conditions to ensure editorial independence while allowing the transfer of *Times Newspapers* to Mr. Rupert Murdoch's *News International*. The conditions laid down provide *inter alia* :

- (1) that there shall be six independent national directors & the appointment of any national directors in the future is not to be made without the approval of the existing independent national directors;
- (2) that editors shall not be appointed or dismissed without the approval of the majority of the independent national directors;
- (3) that the editor of each newspaper shall retain control over any political comment published in his newspaper and, in particular shall not be subject to any restraint or inhibition in expressing opinion or in reporting news that might directly or indirectly conflict with the opinions or interests of any of the newspaper proprietors;
- (4) that instructions to journalists shall be given only by the editor or those to whom he has delegated authority;
- (5) that subject to any annual budget for editorial space and expenditure, the editor shall retain control over the appointment,

<sup>28</sup>. (1976) I.L.R. 1 Delhi, 753.

disposition and dismissal of journalists on his newspaper and of all other content of his newspaper ; and

- (6) that disputes between the editors and the directors of the companies are to be settled by the independent national directors.

Similar arrangements were worked out in July 1981 in the case of the *Observer*. The details in respect of the transfer of *Times Newspapers* and *Observer* to new owners may be seen in Appendices X.17 and 18.

#### *Boards of Trustees for all big newspapers*

113. Newspapers serve a vital public purpose in making available news and views to the community. Editorial independence is of utmost importance if newspapers are to discharge this function satisfactorily. All interferences in this area have to be guarded against. In order to provide an effective safeguard against proprietorial or managerial interference in editorial independence, we recommend legislation for interposition of a board of trustees between the management of a large daily newspaper and its editor. The legislation should be applicable in the first instance only to daily newspapers with a circulation of over one lakh copies. The policy of every such newspaper should be clearly laid down in writing. The function of the boards of trustees would be to ensure that full effect is given to the policy of the newspaper and to act as umpire in disputes between the editor and the management of the newspaper. The trustees should be public men of unquestionable integrity and of eminence in the field of journalism, law, science, medicine, education or such other learned profession. They should be appointed by the managements of the newspapers themselves in consultation with and with the approval of the Chairman of the Press Council and the Chief Justice of the High Court or the Chief Justice of India, as the case may be, depending upon the area of circulation of the newspaper concerned. In the event of a difference of opinion between the Chairman of the Press Council and the Chief Justice on the choice of the members of the board of trustees submitted to them by the management of a newspaper, the view of the Chief Justice should prevail. Every board of trustees should consist of three members and they should be subject to rotational retirement every year or once in two years in the interest of continuity.

114. Sarvashri Girilal Jain, Rajendra Mathur, H. K. Paranjape and S. K. Mukherjea are not in favour of the recommendation.

#### *Term of office of the editor*

115. We are of the view that the editor of a newspaper should ordinarily be appointed for a reasonably long term of say, five years, unless he happens to be approaching the age of superannuation.

#### *The concept of Ombudsman*

116. Several newspapers in U.S.A. have appointed 'ombudsmen' to review the performance of the paper and to check the fairness and adequacy of its coverage and comments. They are expected to monitor the performance of the paper on a daily basis and to deal with complaints from readers. In Sweden, the office of 'Press Ombudsman' was created by three organisations of the newspaper industry in November 1969. On receipt of complaints from the public, the Press Ombudsman works to obtain explanations or retraction from the paper in question.

117. The Royal Commission on the Press (1977) did not favour the setting up of the institution of 'Press ombudsman' in U.K. as it would not fit readily into the framework of the British Press Council. It, however, commended to individual newspapers the idea that they might improve their relationship with readers and show acceptance and understanding of their responsibilities if they were to experiment with internal ombudsman. We hold the same view on this question.

#### *The Right of Reply*

118. In our discussion of the constitutional guarantee of freedom of speech and expression in Chapter IV we have stressed the importance of a right of access to the media and the undesirability of arbitrary denial of space for expression of divergent opinions. A specific application of this principle is the right of a person, whose conduct or views have received adverse notice in the contents of a newspaper, to defend or explain his position through the columns of that paper. In some West European countries this right has received recognition in the area of defamation. The right of reply in such cases is known as 'droit de Reponse' which is available in addition to the remedy of damages for loss of reputation. Thus in France and West Germany, a person who claims to have been defamed or injured by untruthful or inaccurate statements has the statutory right of compelling the editor and publisher of the offending newspaper to publish in its next issue or as soon as possible a counter-statement or a reply sent by him. The reply should receive the same prominence and the same amount of space as the offending statement. Refusal to publish a counter-statement or a reply, irrespective of the fact whether it is true or false, is a criminal offence. Publication can be refused only on the ground that the counter-statement or reply does not comply with the statutory requirements and limitations as to its format and contents. Appendix X.19 gives the details of the provisions in France and West Germany.

119. It is, no doubt, desirable to provide for a right of reply as, in our country, it is very difficult and cumbersome at present to pursue a case of defamation. In fact, our newspapers do generally publish replies from persons receiving adverse notice in their columns. We think that it is not appropriate to lay down that

the reply should get the same prominence or display or the same amount of space as the original report. It should best be left to the good sense and discretion of the editor as it depends, among other things, on the news-fall at a given time.

120. The purpose of providing a right of reply is that the public should not be misled and should know the real position. Non-publication of a reply may be indicative of malice on the part of the newspaper and the plaintiff can attribute it in defamation proceedings

while its publication will be a mitigating factor in the matter of awarding damages for defamation.

121. We are of the view that for the present a right of reply should be recognised by convention as a part of professional ethics and complaints alleging denial of the right should be looked into by the Press Council, as it is already doing. Dr. H. K. Paranjape is however against authorising the Press Council to look into such complaints in view of the recommendation made in Chapter VII for giving the Council penal powers.



## XI. NEWS FLOW : INTERNAL AND INTERNATIONAL

### I. DOMESTIC COVERAGE

In 1954, when the First Press Commission reported, there were three news agencies in the country : Press Trust of India, a public limited company whose shares were held entirely by leading Indian newspapers, which had taken over in 1949 the operations of Associated Press of India (a subsidiary of Reuters), the Calcutta-based United Press of India, established in 1933, which too functioned as a public limited company some of whose directors were proprietors of newspapers ; and Hindusthan Samachar, formed in 1948 as a private limited company by S. S. Apte with the aim of providing news service in the Indian languages.

2. Of these, UPI went into liquidation in 1958. The First Press Commission had spoken of the need to have at least two news agencies, each competing with and acting as a corrective to the other. Many newspapers shared this view. United News of India (UNI) was sponsored by eight newspapers and started functioning in 1961. However, the competing news agencies were owned substantially by the same interests, namely the leading newspapers of the country.

3. Hindusthan Samachar became a workers' cooperative in 1957. A second Indian language agency, Samachar Bharati, came into being on 2nd October 1966 and commenced operations in 1967. In 1970 the agency virtually became a public sector company when five State Governments bought more than 50 per cent of the shares.

#### *Samachar : 1976—78*

4. The four news agencies were urged by the Government during the internal Emergency to merge their separate identities into a single agency. The credit line of the new agency, Samachar, started appearing from 1st February 1976. A society was registered under the Societies' Registration Act, 1860 and a Managing Committee of Samachar started functioning from April 1976 to carry on the business of the former four agencies. The entire personnel totalling over 1,800 were taken over by Samachar, along with the assets and liabilities of the four agencies. The pay scales of all employees of various categories were increased and brought on par with, and in some respects improved upon, those of employees of Press Trust of India.

5. After the change of Government in 1977 a Committee on news agencies headed by Shri Kuldip Nayar was appointed to examine the functioning of Samachar and suggest its reorganisation. This Committee recommended the re-structuring of Samachar into two agencies on co-operative lines, one to provide service in English and the other in Indian languages, and both

to organise jointly an international news service. The report of the Committee, submitted in August 1977, was examined by a Cabinet sub-committee which favoured a return to the position as it obtained before the formation of Samachar. The *status quo ante* was restored in April 1978. To enable the agencies to maintain the higher salaries and allowances on the Samachar scale, the Government offered financial assistance on a tapering basis for six years, besides a non-recurring rehabilitation grant and development loans. The details are given in Appendix XI.1.

6. Appendix XI.2 gives an account of the history, organisation and the nature and scale of the domestic operations of the four wire agencies.

#### *Non-wire News/Feature Agencies*

7. Before returning to the problems and performance of the four wire agencies, we may refer to the large number of small agencies which supply news, articles and other kinds of material by telegram, post or messenger delivery. A survey of the working of these agencies, along with a full list, is given in Appendix XI.3.

8. Among the non-wire news/feature agencies which have made a mark are Indian News and Feature Alliance (INFA), Public Opinion Trends (POT) which specialises in disseminating information pertaining to neighbouring countries, the Cartographic News Service (CNS) and Pan Asia Newspaper Alliance (PANA), a photo agency. Some of the non-wire agencies provided news and analysis in specific perspectives, e.g., the Sarvodaya Press Service, Varanasi, which specialises in coverage of constructive programmes in rural areas, and the Central News Agency, New Delhi, which is run by the Communist Party of India.

9. We are of the view that there is a definite role for small agencies in providing news of local interest and significance, as well as for agencies offering news and comments in different perspectives. It is significant that as many as 32 out of the 48 agencies listed in Appendix XI.3 have come up since 1970.

10. We would like to see the emergence of more agencies specialising in photographs, cartography and other visuals. There is need in particular for comic strips informed by Indian culture and values and offering healthy entertainment. It is distressing to see the extent to which Indian newspapers rely on comic strips of Western origin, depicting spy rings or crime, with situations and dialogue irrelevant to our culture. Some pioneering efforts have been made to use the medium of the comic strip to project Indian tales and



historical events. We would like such efforts to be encouraged so that the agencies concerned can improve the quality of their service and cover more themes in the spirit of the composite culture of our nation.

11. There is scope also for the pooling and country-wide dissemination of the more significant stories of success and failure in rural development—in economic terms as well as of social change—selected from the coverage done by local news agencies in different parts of the country. It could form the nucleus of a rural news service which would enable readers (including farmers, administrators and legislators) in one part of the country to profit from the experience of official and non-official efforts in other parts of the country. Any news agency, wire or non-wire, which comes forward to undertake such pooling and dissemination, and demonstrates its organisational and professional competence to do so, would deserve financial support from the Newspaper Development Commission that we have recommended in the Chapter on Official Agencies and the Press.

#### *Performance of Wire Agencies*

12. The main function of a news agency is collection and distribution of news. In performing this task it is expected to be objective, comprehensive and accurate. It has to guard itself against the danger of identification with or domination by any vested interest—economic, social, communal or political. A democratic society derives its strength from wide-ranging debates on various issues before the community. A good news agency set-up should be capable of ensuring a continuous flow of information from and to people. This social responsibility has to be recognised as part of the concept of freedom of the Press. It will be seen from the details given in Appendix XI.2 that PTI has 193 staff correspondents and 90 teleprinter bureaux which are spread all over the country, the corresponding figures for UNI being 164 and 64; for Hindusthan Samachar 134 and 54; and for Samachar Bharati 94 and 35. None of the four agencies has a full-time correspondent in 350 out of the 405 district headquarters in the country. For news from these 350 districts, the agencies rely on part-time correspondents known as stringers who often do not possess the required professional skill and some of whom are also employed as part-time correspondents by newspapers. In January 1981, PTI had 297 stringers and UNI 199, while Hindusthan Samachar and Samachar Bharati claimed to have about 400 stringers each.

13. Among the areas where none of the agencies has a full-time correspondent are four Union Territories. Also without a full-time correspondent of any of the four agencies are 168 cities out of the 218 in the country which, according to the 1981 Census, have a population of more than one lakh. On the other hand, all the agencies are heavily represented in Delhi; correspondents are also posted in the other three metropolitan cities, the State capitals, and a few district headquarters.

14. This pattern of deployment of staff correspondents vividly illustrates the urban bias in the news coverage by the news agencies, and their preoccupation with political developments in the national and State capitals. It is unfortunate that this should be so three decades after Independence and the launching of the Five-year Plans in a country whose population is overwhelmingly rural. This situation is the counterpart, within the country, of that imbalance in global information flow between the metropolises and the 'hinterland', comprising developing countries, which has been rightly criticised in international forums by spokesmen of the Third World. Our news agencies are hardly in a position to report the social and economic changes taking place—or intended changes not taking place—in the countryside.

15. We have referred in the Chapter on Role of the Press to the tendency of many newspapers to be pre-occupied with the sayings and doings of politicians. This tendency is also reflected in the coverage by news agencies. Agency reporting should be linked to a greater extent with the life and problems of the people. The current imbalance sometimes eclipses important news in the economic, social and cultural spheres. If the news agencies are to play a role in the functioning of a participatory democratic system, this imbalance has to be rectified. The information needed by the reader to fulfil his function in the democratic decision-making process should not be denied to him. Apart from over-emphasis on 'political' news, excessive attention is also paid to what in newspaper parlance is called 'spot news'. 'Current events' should signify not only the bare skeleton of an isolated immediate occurrence but a chain of such happenings presented in a meaningful relationship often followed up with additional related information as consequential developments occur. News agencies seem to take little interest in reporting emerging facets of national activity and social changes consequent upon technological developments, particularly in the countryside. The importance of information as an input in the development process of the country tends to be ignored as a result of the belief that only spot political news will sell. The tremendous expansion of the broadcasting system will tend increasingly to reduce the importance of spot news in the printed paper. The news agencies have to explore hitherto untapped areas of news to give news-reporting a new purpose and utility.

16. Most of the memoranda dealing with news agencies stressed the need to expand rural coverage and provide a service to meet the needs of Indian language newspapers, many of which are of the small category.

17. Opinion is divided on the number of agencies that should function in India. Some favour a single strong national agency while others emphasise the need to guard against monopoly and to promote competition. Many of those who responded to the Commission's questionnaires attribute the news agencies' slow development to their weakness in management and finance and to backward technology. While it was stated that newspapers in general should pay more

by way of subscription, it was also urged that small newspapers and those in remote areas should be allowed concessional rates.

### *Financial Weakness*

18. The principal reason for the inadequate reach of the news agencies, both in terms of the gathering of news and its dissemination through teleprinter links, is their financial weakness. As the tables given in Appendix XI.4 show, PTI incurred an operating loss in eight years out of 17 during the period from 1960 to 1976 (figures for the subsequent years have not been finalised, since data pertaining to the years of operation of Samachar are yet to be attributed to the four agencies). Similarly, UNI was in the red during 12 years out of the 16 years of its operation till 1976; Hindusthan Samachar for 15 years out of the 19 years since 1957-58; and Samachar Bharati in each of the seven years of its operation from 1970.

19. PTI derives 43.47 per cent of its total revenue from its newspaper subscribers, 10.76 per cent from A.I.R. and Doordarshan and the balance from non-media subscribers (including Government departments and commercial houses). In the case of UNI, 58 per cent of the revenue comes from newspapers, 12 to 13 per cent from A.I.R., and the balance from non-media subscribers.

20. While there is scope for the agencies to earn much more from commercial services offered to non-media subscribers—the diversification of services by Reuters was cited in this connection by the representative of PTI who met the Commission—the immediate remedy for the financial ailments of the news agencies is clearly in the hands of newspapers and A.I.R.

### *Payment by Newspapers*

21. The First Press Commission noted in its Report that Press Trust of India had in the course of its working incurred losses amounting to a substantial proportion of its capital, and commented as follows : "We would like to emphasise in this connection that the losses we refer to are not really losses in the usual sense of the term. The newspapers themselves are the shareholders, and if the agency has been recovering from them, as subscriptions, less than what it cost the agency to provide the service, the shareholders have had the benefit each year of the amount that is now shown as an accumulated loss. Each year, they have paid for the services less than in equity they should have, and have thus got their money back in instalments". Noting that the then tariffs of PTI "do not, in our opinion, reflect either the cost to the organisation respect of each category of service, or the value to the newspaper of the service they take", the Commission suggested revised tariffs which took into account, among other factors, the circulation of a newspaper and the difference between English newspapers who could make use of the agency service directly after editing and the Indian language papers who had both to translate and to edit. The First Press Commission suggested revised tariffs in respect also of UPI.

22. Later in 1960, the Salim Merchant Tribunal, dealing with the industrial dispute between PTI and its employees, observed : "To my mind there is not the least doubt that the PTI is run for the benefit of its subscribers and that the rates which it charges them are low and capable of considerable increase".

23. The Fact Finding Committee on Newspaper Economics in its Report (1975) noted that daily newspapers depend primarily on news agencies for the news which they publish and that "the amount of subscription paid by any individual newspaper to those news agencies represents only a very insignificant portion of its cost of production, namely 1.5 per cent". The recommendation of the FFCNE in para 13.5.3 may be quoted in full :

"If the payment of higher rates to the news agencies improves the quality and coverage of their service, the benefit will accrue to the newspapers themselves. The impression should not become strong that the newspaper owners, who also own the news agencies, are keeping the charges low with a view to getting a financial advantage for their papers. This should be considered along with two important facts. First, even if there is a 50 per cent increase in the charges for the services of the agencies, the net impact of that on the total cost of newspapers will be negligible and, secondly, except for the very big papers, any improvement in the quality and coverage of the news agency services will be a great advantage. For most of them the additional charge for the improved services and coverage will be considered smaller than the amount they will be required to spend if they want to get the same type of service through the employment of additional reporters and Special Representatives."

24. The Palekar Tribunals' Report (August 1980) surveyed the financial position of the news agencies as a preliminary to the recommendations concerning wage scales for agency employees. The Report noted that PTI and UNI "are, according to their constitutions, similar to non-profit making consumer societies. Their membership is restricted to proprietors of newspapers subscribing to the services provided by the Agencies and are run by them on a no-profit basis. No dividends are declared. As in consumer co-operatives their natural anxiety is to keep down expenditure, on the one hand, and provide services to the members as cheaply as possible, on the other. This distorts their economies and lends an aspect of unreality. . ."

25. The Palekar Tribunals contrasted the payment of 1.5 per cent of newspaper production cost to news agencies with the commission of 15 per cent paid on advertisements and 30 per cent on sale of copies, and went on to say : "Even a 50% increase in the current charges will hardly have an impact on the production cost of a newspaper. On the other hand, news agencies will be able to attract better types of journalists, who will not only display integrity,

objectivity and efficiency in the matter of news reporting but also contribute special features of general interest, thus reducing the dependence of the bigger papers on special correspondents and feature writers and providing adequate services to the small papers who cannot afford to employ special correspondents”.

26. It was pointed out to us by a representative of PTI that the agency gets only one paisa for every three copies as subscription from a newspaper, whereas a newspaper hawker gets at least 10 to 12½ paise for each copy sold. A study made in the Commission indicated that in 1978 some of the big English newspapers taking PTI's 'A' Service paid as low as 0.5 paisa per copy. Big Indian-language dailies taking this service paid much less, 0.25 paisa. Generally, the higher the circulation the lower was the per copy cost of the agency service to the newspaper. Thus in the case of one big Indian-language paper subscribing to the 'C' Service of the PTI, the per copy cost came to 0.09 paisa. In other words, the paper was paying the agency only one paisa per 10 copies.

27. Representatives of the news agencies told the Commission that the principal reason for their financial weakness is the low rate at which news agency services are paid for by newspaper subscribers, and also by All India Radio (including Doordarshan). Giving reasons for the low rate of subscription, the agency representatives said that they were not in a position to quote their own terms of business with regard to AIR, which is a monopoly buyer. As regards newspaper subscribers, it is only during 1981 that PTI and UNI, which are owned by newspapers, have been able to effect substantial increases in subscription rates. The two Hindi agencies seem to be unable to increase their rates to a significant extent because of their limited coverage.

28. It was following the Palekar Award that PTI, UNI and Hindusthan Samachar increased the rates for their services to newspapers with effect from 1st March, 1981. However, this was done primarily in order to absorb the additional expenditure on the implementation of the recommendations of the Palekar Tribunals, and not so much with a view to raising resources for the expansion and improvement of the news agency services.

29. There is force in the criticism that subscription rates charged from big newspapers are on the low side. The representatives of the I.F.W.J. who appeared before the Commission said that both the English news agencies being owned by big newspapers the subscriptions have been deliberately pegged down to a low level. The First Press Commission, the Salim Merchant Tribunal and the Fact Finding Committee on Newspaper Economics as well as the Palekar Tribunals have all pointed out that low news agency tariff has benefited the owner-newspapers. In fact, the low tariff rates are operating as a subsidy to these newspapers. We consider that the big papers are in a position to pay much more. The net impact of this increase on the total cost of big newspapers will be negligible. Incidentally, as pointed out in the report of the Palekar Tribunals, this will automatically raise the subscription to be paid by AIR.

S/1 I&B/82.—23

### *Payment by All India Radio*

30. The complaint that the payment made by All India Radio for the services of news agencies is inadequate is nearly as old as the complaint regarding newspapers. The First Press Commission suggested a revision of the subscriptions paid by All India Radio on the same lines as proposed by it in respect of newspapers. Briefly, the fixed charge payable by All India Radio to PTI would be as for the agency's 'A' Class Service to newspapers published in English, and the royalty would be 10 annas per annum per broadcast receiver licence. Payment for use of agency news in External Services, the Commission suggested, might continue to be fixed *ad hoc*.

31. The payment actually made by All India Radio to PTI has been much less than what was recommended by the First Press Commission. At 10 annas (now 62 paise) per broadcast receiver licence, PTI should have received during 1979 a royalty of at least Rs. 124 lakhs (the number of radio licences at the end of 1979 having been 20.67 million). Actually the revenue derived by PTI from All India Radio during 1979 was less than a third of that figure.

32. During the period from 1962 to 1967 the Government followed the principle that AIR's subscription "should not substantially exceed 25 per cent of the income from newspapers". During the period from 1967 to 1972, this was taken to mean 25 per cent of the revenue derived by the agencies from newspapers. For the period commencing 1973, the Government decided that 1.25 per cent of the licence revenue of the AIR should be paid to PTI and UNI in the ratio of 7:4 as a retainer, and to this should be added 0.50 per cent for specific services, making a total of 1.75 per cent of the licence revenue. The licence revenue was pegged at the level of the year 1973-74 for the subsequent five years. With effect from February 1976, when Samachar came into being, an *ad hoc* payment of Rs. 2,32,500 per month was being made, amounting to an annual subscription of approximately Rs. 28 lakhs. On the revival of the news agencies on 14th April, 1978, AIR paid these agencies at the pre-February 1976 rates which worked out to about Rs. 38 lakhs per year. All this, according to the agency representatives, was unilateral and arbitrary.

33. A committee of officials which went into the AIR's subscription to news agencies in 1978 felt that the payment was very low. It suggested a new formula in accordance with which payment is made at present. The formula is based on the equation of newspaper copies with an adjusted number of radio sets. The number of radio sets has been adjusted as 20 per cent on the ground that news content in the total programmes of AIR in terms of broadcast time is approximately 20 per cent. Similarly, the number of T.V. sets has been adjusted at 5 per cent because the news content in the total programmes of Doordarshan is approximately 10 per cent, and 50% of the stories are contributed by the Doordarshan staff themselves.

The formula which obtained till 1st March, 1981, as intimated to us by All India Radio, is as follows :

1. The total amount of subscription payable by All India Radio and Doordarshan for any financial year to all the four News Agencies, namely, Press Trust of India, United News of India, Hindusthan Samachar and Samachar Bharati taken together, will be calculated with reference to the following formula :

$$X = \frac{[0.2(A) + 0.05(B)]}{C} \times 100$$

#### WHERE

X = Subscription payable by All India Radio and Doordarshan as a per cent of subscription realised by the news agencies in the year from dailies in India (excluding commercial/Government subscription and revenue derived from foreign news agencies);

A = Number of radio licences in force as on 31st December of preceding year as certified by Accountant-General, Posts & Telegraphs;

B = Number of Doordarshan licences in force as on 31st December of the preceding year as certified by Accountant General Posts & Telegraphs;

C = Circulation of daily newspapers in India during the preceding year as certified by Registrar of Newspapers for India.

2. In addition to the amount above, a further sum of Rs. 5 lakhs will be payable to the news agencies on account of the broadcast of news over the External Services.

A further amount of Rs. 5 lakhs will also be payable on account of the broadcast of slow-speed news bulletins broadcast by All India Radio to help small newspapers. This amount will not be paid if at any time All India Radio discontinues these bulletins.

After the amount payable to the four news agencies taken together has been arrived at on the basis of the above formula, it is to be divided among the four agencies on the basis of their revenue from daily newspapers. However, in view of the very low income of the two Hindi agencies from daily newspapers, a minimum of Rs. 10 lakhs out of the total amount is set apart for distribution between the two in the same ratio as the subscription realised by each of them from newspapers. The balance is similarly distributed between PTI and UNI in the ratio of the subscriptions realised by them from daily newspapers.

The arrangement for the minimum payment to the Hindi agencies will be discontinued when the combined subscription

payable to them by AIR exceeds Rs. 10 lakhs in a year.

34. It will be evident that the payment to the news agencies is not based on the value of the service provided by the agencies to All India Radio, but is a percentage of the value of the service rendered by news agencies to newspapers. This approach is open to question, considering that the news put out by AIR is a prime draw for listeners. We have been informed that a recent survey by the Audience Research Unit of AIR on listenership to news bulletins—both Central and regional—has brought out the following :

“When enquired about the type of programmes for which the listeners tuned to radio, the majority mentioned the news, both in the rural and urban areas. This figure ranged from 77.8 per cent in the north zone and 93 per cent in the south zone for urban areas. For rural areas, the corresponding figure was 71 per cent in the north to 93 per cent in the southern zone.

35. News obviously ranks very high, along with film music, in All India Radio's listener rating. A rational and equitable basis for working out AIR's payment to the news agencies is, therefore, essential. The wire news agencies are, in a sense, in the position of monopolistic suppliers of a service. Likewise, All India Radio and Doordarshan are in the position of monopolistic buyers of the service. Therefore, in the event of a dispute raised by a news agency or agencies or by A.I.R./Doordarshan regarding the rates of subscription, it will be appropriate to refer the dispute to the M.R.T.P. Commission.

36. With the abolition of licence fee for one-band and two-band radio sets from August 1980, some other method of estimating the number of listening sets, including the non-licensed ones, has become necessary. The information will be needed by All India Radio both to determine its commercial advertisement charges and as the basis of working out payments to the news agencies.

37. The sound approach would be to determine the payment to the agencies on the basis of the total revenue derived by A.I.R. from licence fees and commercial advertising, the amount of broadcasting time applied to news bulletins, and the extent of contribution made by the news agencies to the news broadcasts. The same approach should be applied also in the case of Doordarshan.

38. Any formula that is worked out should take into account the fact that the broadcast media have a large stake, even as newspapers do, in the growth of the news agencies so that they can cover more adequately the events and the social and economic processes in the world's largest democracy. The approach should not be one of driving a hard bargain and arriving at the minimum prices payable for services presently rendered by the agencies.

39. The growth component proposed by us in the foregoing paragraph is based on the technology of news transmission presently employed by the news agencies. This is distinct from the *development assistance* to

news agencies that has been envisaged by us as one of the functions of the proposed Newspaper Development Commission.

#### *New Teleprinter Technology*

40. That Commission's role will be to assist the news agencies to modernise their equipment and adopt the new technologies based on computerisation now available for faster and more accurate transmission not only in English but also in the Indian languages, in the script of each, which we have discussed in the Chapter on the Press as an Industry.

41. Computerisation is entering news agency work, as it has already entered several other areas of professional and business activity in the country. PTI has launched a pilot project, in collaboration with the Computer Maintenance Corporation and the National Centre for Software Development and Computing Techniques (of the Tata Institute of Fundamental Research). It involves phased employment of computer technology—information processing, storage and retrieval, and automatic switching—to speed up the agency's operations. UNI also, we are informed by that agency, proposes to begin computerisation of its operations.

42. It has been pointed out to us that wide use is made in Japan and Western countries of small facsimile machines which can transmit any matter, written or visual and that a prototype of such a machine has been produced by the Electronic Corporation of India, Hyderabad. This Indian-made machine called transceiver, can handle a maximum size of 210 mm × 297 mm which is roughly one-fourth of a standard daily newspaper page, and the transmission time is about four minutes. The device can operate through the telephone system. A pair of machines will be needed for any single operation and the cost of a pair would work out to about Rs. one lakh. The initial outlay needed for establishing individual links and the operational cost may not be within the reach of Indian language news agencies or newspapers. Under the present telephone system, the facility for simultaneous transmission to different destinations or to different addresses in one centre is not available, nor is the transmission at high speed. We therefore feel that though this new technology has great possibilities, large-scale adoption of it by Indian news agencies will have to wait till telecommunication facilities are further improved and the production of the equipment becomes cheaper. The facsimile transceiver machines can, however, be of use even now for the transmission of photographs, maps, charts and other material not requiring high-speed transmission, by agencies dealing in visuals.

#### *One Agency or More ?*

43. In the discussion so far, we have not dealt with the question of how many news agencies, offering services in what languages, are desirable and feasible in the Indian context, political and economic.

The question has been under debate for many years on account of the financial weakness of all four of the wire agencies, and particularly since 1976 when they were amalgamated into a single entity, Samachar. There are those who argue that a developing country like India cannot support more than one national news agency and that the single agency should offer its services in all the languages for which there is a demand from newspapers and/or the broadcast media. The proponents of a single agency urge that the circumstances under which Samachar had to work during the internal Emergency, and which made its functioning less than professionally objective, were peculiar to that period and that it should not be assumed that a single news agency will necessarily be vulnerable to misuse by the Government for the purpose of news management and manipulation of public opinion. The advantages of a single agency, according to them, are evident from the present concentration of the correspondents of all four agencies in the national and State capitals and other large urban centres, in the name of competition, and the almost total neglect of coverage of events and socio-economic processes in rural India. The proponents of a single agency also point to the example of democratic countries like the U.K., France and the Federal Republic of Germany which have only one national news agency.

44. The critics of the concept of a single agency point to the difference between a large and heterogeneous country like India which is a union of States in which a dozen major languages are spoken, some of them by populations as large as those of the U.K., France and the Federal Republic of Germany. They would favour the existence of at least two competing news agencies. A single news agency, in their view, would be prone to manipulation by the Government of the day, particularly because broadcasting in our country is run by a Government department and a substantial proportion of the revenue of news agencies is derived from the broadcasting organisations.

45. It is recognised on all hands, however, that Indian language newspapers need to be offered news service in their respective languages, on a scale and level of efficiency which neither of the existing Indian language agencies has been able to provide. Ideally, an Indian language news agency—or a federative system which brings several regional language agencies together—should develop through the pooling of resources by newspapers published in the Indian languages. Several of these newspapers now command circulations, and earn revenues, many times more than 1954 when the First Press Commission reported. A co-operative enterprise launched by publishers of Indian language newspapers, in the manner in which PTI and UNI were formed but with more broad-based participation, would be commendable on several counts.

46. A news agency system with the participation of a wide spectrum of newspaper publishers is preferable to agencies which lack credibility because of their

suspected political affiliation, as is the case with both the existing Indian language agencies. Secondly, a news agency system evolved by Indian language newspapers in different parts of the country, which are closer to the grassroots in each region than the English Press and the English language agencies, will facilitate the exchange of information on the literary, cultural and social trends in the various regions of the country and thus contribute to mutual understanding and national integration.

#### *Desirable Lines of Development*

47. So far as news services in English are concerned, we recommend that the present position in which PTI and UNI offer competing services, be left undisturbed.

48. It is necessary that the claims made by the different wire agencies regarding wordage put out per day, number of subscribers, etc., should be assessed objectively on the basis of uniform criteria. This can be done for the present by the Press Council, and more appropriately by the proposed Newspaper Development Commission when it comes into being.

49. All the news agencies should strive to provide better service to newspapers, through wider rural coverage and a broader range of themes of interest to sections of our population additional to those now being catered for, namely the urban middle and upper classes and the rural well-to-do. In order to discharge the hitherto neglected functions, the agencies will have to introduce new services. Some of these might require subsidy. We are of the view that such assistance should be sought by the news agencies from the Newspaper Development Commission and not directly from the Government. We are also of the view that all subsidies should be temporary and should be gradually withdrawn. As regards the provision of news services in Indian languages, opinion tendered before the Commission has been unanimous that the services now provided by the two Indian-language agencies are quite inadequate, both quantitatively and qualitatively. Opinions have differed only on the means of bringing about the desired improvement in the situation; whether either or both of the existing Indian-language agencies can improve their performance with encouragement on a significant scale by newspapers and the Government; whether either or both of the English-language agencies can undertake the delivery of services in Indian languages; or whether a wholly new agency or a federation of regional-language agencies can be sponsored by the Indian-language newspapers, with financial support from the Government; or whether a new Indian-language agency should be established as a public sector corporation by statute.

50. The development of a first-rate news service in Indian languages brooks no further delay. We are of the view that any of the existing agencies which comes forward with a viable scheme for developing such a service should be given substantial assistance

by the proposed Newspaper Development Commission. If none of the existing agencies comes forward with a viable scheme, we would like to see the Indian-language newspapers in different parts of the country taking the initiative to form a new agency which will offer an efficient service in Indian languages; such an effort would deserve full support from the Newspaper Development Commission. If, however, neither the existing agencies nor the Indian-language newspapers come up with a satisfactory scheme for the provision of an efficient news service in Indian languages, we recommend that a statutory corporation should be set up. Sarvashri Girilal Jain, S. K. Mukherjee and H. K. Paranjape are opposed to the idea of a statutory corporation.

#### *Servicing of Small Newspapers*

51. All the four wire agencies have made special provision for small newspapers, whose paying capacity is limited. PTI has several categories including one for small newspapers at a low rate of subscription, and levies no surcharge in the case of newspapers with a circulation below 10,000. The teleprinter rental for such small newspapers is also at a concessional rate. UNI offers the same service to all subscribers, but at a concessional rate to newspapers with a circulation below 10,000, which do not have to pay any surcharge based on circulation. Both PTI and UNI offer further concessions to newspapers in Indian languages. In the case of Hindustan Samachar and Samachar Bharati, the subscription rates are unrelated to circulation but the flat rates are lower in the case of small newspapers.

52. The Indian-language news agencies have claimed that their material is used extensively by non-metropolitan and district newspapers, and in the regional news bulletins of All India Radio. In paragraph 9 we have already pointed to the need to encourage the growth of local and regional news agencies. This can serve local-interest small newspapers in particular, though part of their coverage will be of wider, sometimes all-India interest. Small newspapers will have an identity of their own to the extent that they carry news of special interest to the local readership, including the rural population, and do not come out as pale imitations of newspapers published from State capitals or other large publication centres. It is only this special identity which can enable them to tap the large potential of readership in small towns and the bigger villages, either as a supplement to a newspaper from a State capital or metropolis or as a newspaper sufficient in itself from certain classes of readers.

#### *Shareholding and Management of News Agencies*

53. The First Press Commission was of the view that PTI's management should be transferred to a public corporation established by an Act of Parliament or operating under a Charter from the President. It said that the measures of governmental assistance recommended by it to help the news agency should be



conditional on the suggested changes in the constitution and management of P.T.I. This recommendation of the First Press Commission was not implemented.

54. Later, with the formation of Samachar in 1976, the ownership and management of all the four agencies virtually passed into the hands of the Government. The Committee on News Agencies headed by Shri Kuldip Nayar which went into the question of a suitable structure of news agency services suggested in its report of August 1977 the creation through a parliamentary charter of two news agencies—Sandesh for providing news services in English and Varta primarily for services in Indian languages. It also suggested the creation of another agency News India, for international operations, which was to be jointly sponsored by Varta and Sandesh. This recommendation was not accepted by the then Government, which chose to revert to the pre-Samachar position by restoring the identities of the four agencies. It was left to the agencies to decide for themselves either to come together or to function separately.

55. Information on the structure of ownership and management of the four wire news agencies is given in Appendix XI.6. It will be seen that in the cases of all the four agencies the subscribed capital is far below the authorised capital, which itself is not very large. Hindustan Samachar, whose co-operative character gives it the benefit of not having a ceiling on the authorised capital, has a poor base of subscribed capital and has never declared a dividend. Samachar Bharati and UNI are registered under Section 25 of the Companies' Act, 1956, and do not declare dividends. PTI is registered as a joint stock company under the Companies Act of 1913, but for all practical purposes it functions as a Section 25 company and does not declare dividends.

56. It has been pointed out to us that the lack of any return on investment in shares is the main reason why a large number of shares of the news agencies are available for purchase but have not been taken. A second reason adduced by some is the alleged dominance of big newspaper concerns in the shareholding of PTI and UNI and the absence of serious efforts to bring in medium and small newspapers as shareholders. On the other hand, it appears that small and medium newspapers have not come forward in large numbers to purchase shares in the two agencies.

57. We recommend that the news agencies should make a special effort to improve the spread of their shareholding. This will have two advantages. It will widen the capital base and thereby help the agencies to secure long-term credit for expansion and modernisation. Secondly it will enable wider participation by medium and small newspapers in the running of the agencies and improve their service to such newspapers.

58. It was put to us that if subscription to a news agency is made a condition for the release of Govern-

ment advertisements to general-interest daily newspapers (as distinct from newspapers whose contents are either highly specialised or of purely local interest), it will serve both to improve the quality of the newspapers and induce them to buy share in the news agencies concerned. While agreeing with this view, we would not recommend discontinuance of the issue of advertisements to general-interest dailies which do not subscribe to a wire agency. That would hurt such small newspapers who may not be able to afford subscription to a wire agency. Secondly, it will limit the scope of conveying the messages of the Government to the readers of such small newspapers. Therefore, we recommend that the Central and State Governments should, in fixing the rates of advertisements, fix two rates : one for daily newspapers which do not subscribe to any wire agency, and a higher rate for dailies which subscribe to a wire agency.

59. Since news agencies serve not only newspapers but the wide public, we are of the view that there should be provision for public accountability. It is also desirable to ensure the representation of medium and small newspapers—who need news agency services even more than big newspapers—which have a network of their own correspondents—in the boards of management of the news agencies. We therefore recommend that in addition to the directors elected by the shareholders, the board of directors of each wire agency should have :

- (1) a director jointly nominated by the Speaker, Lok Sabha and the Chairman, Rajya Sabha (who need not necessarily be a Member of Parliament);
- (2) a director nominated by the Chairman of the Press Council (who need not necessarily be a Member of the Press Council); and
- (3) two directors representing the small and medium newspapers respectively, by co-option if such directors do not happen to have been elected.

60. We have suggested elsewhere that all development loans or subsidies to the news agencies should be channelised through the proposed Newspaper Development Commission. When the Newspaper Development Commission is set up, it should also have a nominee on the board of directors of each of the wire agencies.

61. We further recommend that shareholding newspapers should nominate only journalists as their representatives on a news agency's board.

62. We are confident that the news agencies will voluntarily bring about the changes proposed above in the boards of management by amending their constitutions and that legislation for the purpose should not be necessary.



63. PTI's Articles of Association provide for limitation on the voting powers of its shareholders. Samachar Bharati also has a similar provision. Hindusthan Samachar, being a co-operative, allows only one vote irrespective of the number of shares held. In the case of UNI the voting power is proportionate to the number of shares held. We suggest that UNI and Samachar Bharati should adopt a limitation on voting rights broadly on the PTI pattern.

## II. FLOW OF NEWS FROM AND TO INDIA

64. The effect of the financial weakness of Indian news agencies, which has set certain limits to their domestic coverage, is more glaring in the area of international news operations. Appendix XI.5 gives a survey of the arrangements which the Indian agencies have for sending out news from India and to collect and receive news from abroad for distribution in India. It will be seen that even PTI which is the largest of the four agencies in terms of revenue, wordage put out per day and the number of staff correspondents within the country and abroad, has only a nominal representation abroad when compared with the strength of the major international news agencies which have bureaux manned by half a dozen or more persons in the principal capitals of the world.

65. In the case of the international news agencies based in Western countries, which have grown and established themselves over the last hundred years, the international operations of news coverage and distribution are sustained by a strong domestic base. For instance, according to *The International News Agencies\** Reuters (which is part-owned by Press Association, the British domestic news agency) distributes only its world services in the U.K. and charges the newspapers and other media significantly more than the other global agencies charge the U.K. media: "In the case of one of the popular U.K. national dailies, for instance, the Reuters subscription in 1975 was almost four times greater than that paid to the more expensive of the two American agencies (£ 30,000 as against £ 8,175)."

### *Government Aid for International Coverage*

66. The other source of strength of the major international news agencies has been the help received from the governments of the countries in which they are based. The help may be tangible and open, as in the case of TASS, or it may be indirect and intangible. The operations of Reuters and AFP expanded over the decades so as to cover the greater part of the globe alongside the growth of the British and French empires, even as the growth of the U.S. agencies, Associated Press and United Press International, would have been inconceivable without the dominant position attained by the U.S.A. during this century in the world's affairs, political and economic.

67. The cost of maintaining Indian correspondents abroad, of their travel within the country and region

assigned to them, and the cost of transmission are so high that no Indian news agency can finance its foreign operations from its own revenues, including revenue from the sale of its news service abroad. Assistance from the Government on a substantial scale is therefore inescapable. Given the constraint of the country's resources of foreign exchange, it is evident that it will not be possible for the Government to assist more than one agency to expand the number of bureaux abroad for the collection and dissemination of news. Even among the developed countries, it is only in the case of the U.S.A. that there are two international news agencies—and one of them is in financial doldrums. It is unnecessary and will be imprudent for India to emulate the U.S.A. in this matter.

68. PTI is ahead of the other agencies in the matter of international news coverage, and is the obvious choice for expansion of its operations with assistance from the Government. It was suggested to us on behalf of UNI that, in the interest of competition, it might be allotted certain regions—e.g. South East Asia and West Asia—for exclusive operations while PTI might cover other parts of Asia, Africa, the Americas and Europe.

69. This formula appeared reasonable to some of us, since UNI would otherwise be at a disadvantage in respect of the scope of its coverage. Most of us, however, felt that international coverage by two Indian news agencies is impracticable on several grounds. An Indian newspaper desiring to have coverage of world affairs by Indian news agency correspondents will have to subscribe to the services of both the news agencies (the number of newspapers which do so at present is only 92 out of 454 dailies which subscribe to any wire news agency). Secondly, each agency will be able to offer to potential subscribers abroad only its own limited coverage of international news. Thirdly, there is hardly any competition involved in the coverage of different regions of the world by two agencies.

70. The Commission is, therefore, of the view that it will be rational and expedient to assist PTI to improve its international operations, both for collection of foreign news and the dissemination of Indian news abroad. However, it is not our intention that any other agency should be prevented or discouraged from news collection and dissemination abroad. We recommend that assistance be extended for operations abroad by UNI or other agencies also in respect of selected neighbouring and other countries, news from which is of great interest to Indian readers.

71. We welcome the recognition by the Government in recent years, belated though it is, of the inescapable need to meet part of the cost of maintaining news agency correspondents abroad. The External Affairs Ministry in 1980 evolved a formula under which it meets part of the total expenditure, which at present ranges from Rs. 3 lakhs to Rs. 4 lakhs per new post. We recommend that this policy be continued and further liberalised so as to fill up the

\**The International News Agencies*, Oliver Boyd-Barrett Constable, London, 1980.

yawning gaps in the coverage of Africa and Latin America and large parts of Asia. The development of a professionally capable and technologically well-equipped international news agency is obviously in the vital national interest of a country which has attained its place among the first ten industrialised nations of the world. It is desirable that news concerning India and its perception of events in the sub-continent and in the world should be conveyed with competence and speed to other countries, and that news and interpretation of events in other countries should be available to Indian readers from Indian correspondents rather than through foreign news agencies which have their own perceptions and prejudices.

72. PTI pointed out to us that the External Affairs Ministry spends a substantial sum on preparing and sending news bulletins for the benefit of Indian Missions abroad. The agency felt that the bulletins could be prepared and transmitted faster and more economically by the agency which, unlike government offices, works round the clock and can deal with the news presentation professionally within the parameters of policy. We think the suggestion is worth consideration.

73. We recommend also that the Government might take a comprehensive look at the structure of overseas communications rates. Both PTI and UNI told the Commission that the rates charged by the Overseas Communication Service are high. For instance, under the Press Bulletin Service for transmission of messages via satellite, there is a concessional rate which enables an agency to commission a twelve-hour, two-way satellite link with any part of the world by paying Rs. 8,000 per month at the Indian end. However, the OCS offers this rate only in respect of links with countries which give a reciprocal concession. This policy is in effect helping the Western agencies because only the Western countries reciprocate the concession. The satellite link that PTI commissioned for Antara (Jakarta) is attracting a levy of Rs. 32,000 per month at the Indian end, whereas PTI can get a satellite link with Washington or London at half the price. As a result PTI is hesitant to open links with countries which do not offer reciprocal concession, and these include most of the developing countries. The insistence on reciprocity appears to call for immediate review. The Newspaper Development Commission may keep a constant watch on the situation, and may suggest lowering of rates unilaterally by the Overseas Communication Service in appropriate cases, in the interest of the development of international services of Indian news agencies. This is in consonance with the larger recommendation made by us in the Chapter on Official Agencies and the Press that the proposed Newspaper Development Commission should keep matters such as communications tariffs, domestic and international, under continuous review and liaise with the Government departments concerned in order to secure rates, for different modes of news transmission, that will be within the ability of the Indian Press to pay.

74. It was brought to our notice that correspondents posted abroad were, in many cases, not conversant with the language of the country to which they were sent. Such a practice would defeat the whole objective of maintaining correspondents abroad at great cost. While providing assistance for international coverage, the Government should ensure that the news agency sends out correspondents who know the languages of the respective countries to which they are posted.

### III. A NEW INTERNATIONAL INFORMATION ORDER

75. Implementation of the measures suggested by us in the preceding section for improving the flow of news from and to India will make a significant contribution to the evolution of a new international information order which has been vigorously canvassed during the last decade by the non-aligned and developing countries.

76. The prime source of information about one another for the countries of the world is the news agencies, whether the information is received through newspapers or radio. The history of the world news agencies as we know them today can be traced back to the mid-nineteenth century when newspapers in the advanced countries pooled their resources to send correspondents abroad to cover events of common interest to them. The first news agency, "Havas" in France, was founded in 1835. In the U.S.A., the newspapers of New York got together in 1848 for the coverage of the war with Mexico. A syndicate of provincial newspapers in Britain similarly sent war correspondents to Egypt and South Africa at the turn of the century. This trend developed into the system of a country's newspapers jointly establishing a news agency, or more than one news agency, for the coverage of both domestic and foreign news or foreign news only.

77. News agencies exist today in more than one hundred countries and their growth has been noticeably marked in the past decade. A special feature of the development, however, is that five major news agencies dominate news collection and distribution all over the world by virtue of their size and technological strength. They are : Agence France Presse (France), Associated Press (U.S.A.), United Press International (U.S.A.), Reuter (Britain), and TASS (U.S.S.R.). Each has offices in a large number of countries. Together they transmit millions of words every day to all parts of the world, informing and influencing public opinion and perceptions.

#### *Imbalance in News Flow*

78. Of this huge wordage, only a small part pertains to the developing countries in Asia, Africa and Latin America. It was found, for instance, that in the mid-seventies Asia as a whole got between three and six per cent of the wordage in the global services of three transnational news agencies : Reuter, AFP, and UPI, though the situation has since improved to some extent.

79. It is not only the volume but the content of news pertaining to the Third World which has attracted criticism. Developing countries complain that when they figure at all in the despatches of a transnational news agency, mostly they report either a coup or an earthquake or the persistence of poverty, squalor, inequality and superstition—and rarely tell the story of the efforts being made by these countries for social reform and economic development. Even those journalists who are critics of their own regimes, agree that there is scope for greater, more rounded and more perceptive reporting of the Third World in the Western media.

80. The constraints in the way of the developing countries being able to correct the imbalance in the international flow of news are mainly economic and technological as well as the lack of trained professional manpower. Some 35 developing countries have no news agencies at all, including 24 with populations of more than one million.

#### *Non-aligned News Pool*

81. In the 'seventies' opinion gathered momentum within the developing world in favour of bilateral, multi-lateral, regional as well as intercontinental co-operation in the sphere of news exchange. The Non-aligned News Pool (NANP), whose operations cover the continents of Asia, Africa, Europe and Latin America, is an example of such exchange. Press Trust of India is a participant in the Pool, supplying suitable news items from this country to the Pool and circulating selected items out of the news received from Pool partners.

82. The Pool, which was started in January 1975, is a voluntary effort on the part of non-aligned countries to promote flow of news among themselves. It is not intended to be another transnational news agency, nor to supplant the existing organisations that collect and disseminate news. It is, according to the sponsoring governments, designed to supplement the flow of news and correct the imbalance so that the non-aligned countries may be better informed about themselves and are able to project a more realistic image of themselves. Its membership has grown to more than fifty.

83. In addition, there have been attempts on the part of news agencies of Asia to develop regional co-operation. The Organisation of Asian News Agencies conceived by member-countries of ASEAN and the Asian News Network proposed by Asian agencies are examples. Similar efforts are in various stages of progress in the Arab world, Africa, the Caribbean, and Latin America. These efforts should in time make a noticeable impact on international news flow.

#### *MacBride Commission's Report*

84. The imbalance in the international flow of news was among the terms of reference of the International Commission for the Study of Communication Problems, with Mr. Sean MacBride as Chairman,

which was formed by the Director-General of UNESCO late in 1977 and turned in its report in November 1979.

85. In the early 1960s UNESCO had tended to offer to developing countries a quantitative prescription in the area of communication, namely, that they should strive to attain at least 10 daily newspaper copies, 20 radio sets and two cinema seats per 100 people. These 'UNESCO norms' ignored the problem of media content, on the one hand, and, on the other, the problem of unequal access to the mass media among the populations in developing countries.

86. In contrast, the problem of media content is recognised and plainly stated in the MacBride Commission's Report. It points out that the expansion of communication is not an end in itself: "Everything will depend on the use made of the new resources..... Communication can be an instrument of power, a revolutionary weapon, a commercial product, or a means of education; it can serve the ends of either liberation or of oppression, of either the growth of the individual personality or of drilling human beings into uniformity..... Our conclusions are founded on the firm conviction that communication is a basic individual right, as well as a collective one required by all communities and nations. Freedom of information—and, more specifically, the right to seek, receive and impart information—is a fundamental human right; indeed, a prerequisite for many others. The inherent nature of communication means that its fullest possible exercise and potential depend on the surrounding political, social and economic conditions, the most vital of these being democracy within countries and equal, democratic relations between them."

87. The MacBride Commission acknowledged the differences in the way communication is organised and utilized in different societies. Mr. MacBride says in his preface: "The reader must bear in mind the many linguistic, cultural and philosophical stands that were woven in this vast mosaic on communication.....fundamental issues in communications..... are structurally linked to wider socio-economic and cultural patterns. Thus, finally—and inevitably—communication problems assume a highly political character which is the basic reason why they are at the centre of the stage today in national and international areas."

#### *Recommendations of South Asian Conference*

88. In September 1980 the Indian Institute of Mass Communication organised in New Delhi, on behalf of UNESCO, a conference of communication specialists and administrators from South Asian countries to consider the MacBride Commission's Report. It was attended by delegates from Afghanistan, India, Bangladesh, Nepal, Pakistan and Sri Lanka. The Conference endorsed the basic approach of the MacBride Commission's Report and made the following recommendations: (i) It is desirable to have a freer circulation of newspapers and periodicals among countries; (ii) Governments should facilitate, on a reciprocal basis, the entry of genuine correspondents from other

countries and afford them facilities to function professionally ; (iii) There is need to encourage the development of local interest and rural newspapers which have an important role in the life of the country, alongside bigger newspapers serving larger areas ; (iv) Each country should adopt technologies that suit its particular needs, including advanced technology such as satellite communication which is cheaper than telex ; (v) Governments should reduce communication tariffs, without allowing short-term considerations of revenue loss to stand in the way ; (vi) More attention should be paid to training and to communication research relevant to the conditions and needs of developing countries. We agree broadly with the commendations.

#### *International Programme for Development of Communication*

89. UNESCO, at its Belgrade Conference in 1980, after considering the MacBride Commission's Report, adopted a resolution calling for an International Programme for the Development of Communication (IPDC) through projects and programmes to be drawn up by an inter-governmental council. The agreement on IPDC, which is aimed at promoting co-operation and assistance for the development of communication infra-structure, came after protracted negotiations among the developed and developing countries. At the Belgrade Conference the Government of India broadly supported the MacBride Commission's Report and the establishment of IPDC.

#### *Recommendations*

90. We recommend that India should continue to play an active part in drawing up and implementing programmes from year to year under the International Programme for Development of Communication.

91. We welcome India's participation in the Non-aligned News Pool and recommend that the Indian news agency handling the work of the Pool should not merely be a passive recipient of material sent by other participating news agencies, but should actively seek news and background information on tasks faced by India in common with other developing countries such as the eradication of illiteracy, improvement of public health, promotion of family planning, and popular participation in the formulation and execution of local development works. While the Non-aligned Newspool should be utilised to the best advantage it cannot obviously be a substitute for the development of international news operations by an Indian agency.

92. We recommend that the editorial staff of Indian newspapers should be on the look-out for, and utilise to a greater extent, useful information pertaining to Third World countries whether received through the NANP or under bilateral arrangements of Indian news agencies with the news agencies of other countries, or through any of the international news agencies. Some of our newspapers, specially in English, devote a large quantity of space regularly to reproducing material—of varying degrees of relevance and comprehensibility to the reader—from newspapers of the U.K. and U.S.A. A part of this space can be applied with advantage to news and analysis of developments in Third World countries.

93. We have taken note of the substantial contribution being made by the Indian Institute of Mass Communication to the training of news agency journalists from various countries of Asia, Africa and Latin America. We recommend that adequate resources be made available for the continuance and expansion of this effort.

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## XII. TRAINING AND RESEARCH

### A. JOURNALISM TRAINING

For the nationalist Press in India before independence, journalism was largely a mission and the newspaper a vehicle to convey patriotic messages to the masses. After independence, newspaper publishing became a business and journalism a profession, requiring training. Coinciding with the professionalisation of what was formerly a calling was the spurt in the demand for journalists. The number of newspapers rose from about 3,000 (including some 300 dailies) in 1947\* to 330 dailies and more than 4,000 periodicals at the beginning of 1953 as estimated by the First Press Commission. The increase since then has been more than three-fold in respect of dailies and even more in the case of periodicals.

2. The First Press Commission observed that the educational standards and the intellectual equipment of some of those who had entered the profession were "woefully unsatisfactory". The Commission expressed the view that the minimum qualification for entry into the profession should be a degree with a good grounding in humanities and aptitude for journalism. As regards training for journalism, the Commission surveyed the courses in journalism then being offered by the Universities of Punjab, Calcutta, Nagpur, Madras and Mysore and came to the conclusion that a diploma or degree course in journalism should preferably be a post-graduate course of two years. If, however, journalism education was to start earlier in consonance with the tendency to start specialisation after reaching the Intermediate standard, the course in journalism should be of three years. The first year should be devoted to the study of general subjects such as history, sociology, economics and politics. The actual instruction in journalism should be given in the second and third years. The curriculum should also include a study of the management of newspapers and the technique of their production, including instruction in printing and typography, Press photography, radio journalism, etc. Theoretical training, it was recommended, should be supplemented by adequate practical training on campus newspapers and in newspaper offices ("A class room schedule does not give the real feel of the hurry and the bustle, the strain and the pressure of a typical newspaper office").

3. The Commission stated : "We do not think that the training imparted is in all respects satisfactory and we think it would not be desirable to insist at this stage that only those who hold a diploma or a degree in journalism should be permitted to enter the profession. But other things being equal, persons having a

journalistic qualification should have preferential claim in the matter of employment."

#### *Need for training*

4. The need for training in journalism has come to be increasingly recognised over the years since the First Press Commission submitted its report. Shri J. R. Mudholkar, then Chairman of the Press Council, pointed out in a note appended to the Second Annual Report of the Council (1967) that "today no country which is regarded as advanced is sticking to the age-old half truth that journalists are only born, not made". He quoted the American columnist Walter Lippman on the subject : "We recognise today that the Press as a whole must be capable of reporting and explaining, interpreting and criticising, all the activities of mankind. To be sure, not every reader of every newspaper cares to know about or could understand all the activities of mankind. But there are some readers, specialised in some subject, who have to be alerted to important new developments of even the most specialised activities, be it in the remote reaches of astrophysics or micro-biology or paleontology, or in the game of chess. For this, the profession of journalism is becoming specialised..... It is altogether unthinkable that a society like ours should remain forever dependent on untrained accidental witnesses. The better course is to send out into reporting a generation of men who will, by sheer superiority, drive the incompetent out of the business."

5. The third Royal Commission on the Press in the U.K., headed by Professor McGregor, endorsed in its report (1977) the view of the first Royal Commission that "on the quality of the individual journalist depends not only the status of the whole profession of journalism but the possibility of bridging the gap between what society needs from the Press and what the Press is at present giving it", and stressed the importance of attracting into journalism men and women of integrity, judgement and a sense of vocation, and of equipping them by appropriate training and education with the knowledge and skills to serve society.

6. The International Commission for the Study of Communication Problems said in its report (1980) to the Director-General of UNESCO : "In many countries even today, journalists are not regarded as members of an acknowledged profession and they are treated accordingly. To overcome this situation, journalism needs to raise its standards and quality for recognition everywhere as a genuine profession. To be treated as professionals, journalists require broad educational preparation and specific professional

\*Estimates given in *Training in Mass Communication*, D.A.V.P., 1980.

training. Programmes of instruction need to be developed not only for entry-level recruits, but also for experienced personnel who from time to time would benefit from special seminars and conferences designed to refresh and enrich their qualifications".

7. Out of the 250 publishers of newspapers in India who responded to a questionnaire issued by the Goswami Commission, as many as 211 were of the view that systematic training was necessary for a career in journalism. However, opinion varied on the question whether it should be institutionalised or on the job. Opinion tendered before the Commission was, however, nearly unanimous that training should not be made compulsory for entry into the profession. It should remain an open profession which can accommodate intelligent and capable persons who may aspire to a career in it but who have had no opportunity or inclination to be formally trained.

#### *Practice in other countries*

8. It was in the U.S.A. that journalism training first began to be imparted on an organised basis, at the beginning of this century. Joseph Pulitzer, after whom an award for excellence in journalistic performance is named, said that "unprepared journalists, who learn by experience, learn at the expense of their readers". The four-year bachelor's degree course in journalism in American universities follows a broadly uniform pattern, technique-oriented training taking up about a third of the time, and social and natural sciences the rest of it. The master's degree course of one or two years offers greater choice to the student and the doctoral degree of three or four years' duration is tailored to suit the student but has a high content of social sciences; here, journalism may also go with another major subject for the Ph.D. There is a trend for the study of journalism to be dovetailed with the study of other disciplines and thus to broaden the base for subsequent specialisation.

9. In Britain, where formal training for journalism began only after World War II, on-the-job training is still valued highly but it is sought to be combined with pre-apprentice courses. Entrants have to have recognised training, except in the case of highly qualified specialists in particular disciplines. The training of journalists is the responsibility of national bodies jointly formed by managements of newspapers and journalists. The training may be (i) a one-year full-time training course or (ii) a trial apprenticeship of six months with a newspaper, followed by two or three years' indenture interspersed with spells of training on and off the job. There are a few university post-graduate courses but research is not a major element in them. In sum, the British perception based on their experience is that practical on-the-job training is the most important part of journalism education, and formal theoretical teaching should supplement it. Those aspiring to the profession should, however, have a respectable minimum of general education.

10. In West Germany, training on the job has been the norm as in Britain. This training is regulated by formal agreement between publishers, journalists, and printers. The initial qualification for the trainee, the duration (one or two years) and content of the training are stipulated. Within this frame, newspapers can devise their own training schemes.

11. Training in journalism is regarded as important in Communist countries too, though the role of newspapers there is different from that in countries of the West. In the Soviet Union, half of the annual intake of about 3,000 journalists is accounted for by journalism graduates. The university course is of five years' duration and admission is after an aptitude test.

#### *Training facilities in India*

12. The first journalism course was introduced in India in the 'twenties by Dr. Annie Besant at the National University at Adyar in Madras. But it did not last long. Also short-lived was the course introduced at Aligarh Muslim University in 1938. The oldest continuing journalism department of a university in the sub-continent was set up at Lahore in 1941 by Professor P. P. Singh of Punjab University. The only other university to establish a department of journalism in the 'forties was that of Madras (1947). There has been a five-fold increase, since the report of the First Press Commission, in the number of Indian universities offering journalism courses (*Appendix XII.1*) A number of journalism training institutions have also emerged outside the universities, and the curriculum of many agricultural universities include instruction in journalism and other forms of communication (*Appendix XII.2*).

#### UNIVERSITY DEPARTMENTS

13. While only three new university departments of journalism were established in the 'sixties' many more came up during the seventies. The total annual intake of the 23 university departments is about 650. Correspondence courses are also offered by some of these universities.

14. The university courses lead up to a bachelor's degree, post-graduate diploma or master's degree. There are no regular M. Phil. or Ph.D. programmes. Ten universities provide instruction exclusively through the medium of English. Seven have English as the basic medium but offer the choice of some or all of the examination papers being answered in an Indian language. In five universities, instruction is exclusively in an Indian language. These are the Shivaji University, Kolhapur (in Marathi); Ravi Shankar University, Raipur (in Hindi); Marathwada University, Aurangabad (in Marathi); University of Rajasthan, Jaipur (in Hindi) and Saurashtra University, Rajkot (in Gujarati).



15. The Master's degree courses of Bangalore and Osmania Universities have a distinctive feature : these universities conduct a Bachelor's degree (post-graduate) course of one year's duration (called B. S. Communication in Bangalore and B.C.J. in Osmania), and only those who attain a minimum level of proficiency in it are admitted to the M.S. and M.C.J. courses, which are also of a year's duration. In the other four universities, admission to the M. A. course in journalism is open to graduates in various disciplines. Besides Bangalore and Osmania, eleven universities offer full-time post-graduate Bachelor's degree courses in journalism of a year's duration and five more award diploma in journalism after a year's full-time post-graduate study.

16. For practical training in journalistic skills, laboratory journals are brought out by students of some of the university departments. We would commend the editing and publication of laboratory journals in the respective regional languages or bilingual publications in English and the local language) such as the journalism departments of Mysore and Pune universities bring out. The assurance of training in practical skills is necessary to make the graduates of the journalism departments acceptable for recruitment by newspaper undertakings. We were gratified to learn from the journalism department of Pune University that more than two-thirds of its alumni are gainfully employed in newspapers or other communication media, and that they comprise more than half the number of working journalists in Pune.

#### INDIAN INSTITUTE OF MASS COMMUNICATION

17. In the range of facilities available in the country for training in journalism and mass communication, the Indian Institute of Mass Communication (IIMC), established in 1965, is in a class by itself. Administered by an autonomous society and funded by grants from the Ministry of Information and Broadcasting, IIMC offers courses which comprehend all means of communication, traditional and modern, with emphasis on communication for development. The full-time courses of an academic year's duration offered by the Institute are : (i) the Post-Graduate Diploma Course in Journalism for Developing Countries; (ii) the Diploma Course in News Agency Journalism for non-aligned and developing countries; and (iii) Advertising and Public Relations. A large number of foreign scholars from Asian, African and Latin American countries participate in these courses. The Institute also conducts refresher courses, mainly for information personnel of the Central and State Governments and public sector undertakings.

#### PRESS INSTITUTE OF INDIA

18. The Press Institute of India came into existence in 1963 as a result of the combined effort of some leading newspapers. It is affiliated to the International Press Institute (IPI). It organises seminars, workshops and courses of study for journalists and those connected with mass media at different levels.

Its aim is "to provide a professional institute for the training of Indian journalists, for the dissemination of knowledge about better techniques of production and of gathering and distributing news, for elevating the standards of Indian journalism and for training Indian journalists to a high awareness of their responsibility."

#### PROGRESS AND PROBLEMS

19. As noticed in Chapter II, there is a considerable variation in the regularity, size and quality of the newspapers, specially periodicals, brought out in the country. In the case of a large proportion of periodicals with small circulation, the publisher himself is the editor. They might be brought out in order to propagate a cause, or to gain prestige and influence in the community, or might be launched hopefully as a gainful occupation, full-time or part-time. Against this background, it is perhaps not surprising that there is great variation in the educational levels of those engaged in journalism.

20. When the Goswami Commission surveyed the scene, it found that 201 out of 542 journalists who responded to the Commission's questionnaire had no university degree; 219 were graduates and 122 had a post-graduate degree. As for pre-entry or in-service training, 460 of the 542 journalist-respondents had no such training. Of the 82 who had received training, 25 had been trained by newspapers themselves; 27 had taken a diploma in journalism and eight of them a degree; the rest had gone through short courses in India or abroad.

21. There is a marked contrast between the expansion of journalism training facilities in India over the last decade and the low proportion of trained personnel on the staff of newspapers. Perhaps the smaller newspapers which may not be able to afford trained personnel should be left aside; but even the medium and big newspapers apparently do not set great store by the journalism courses available in the country and prefer to let their recruits learn on the job or to put them through their own training schemes such as those conducted by the *Times of India* and *Eenadu*. There is a clear need to improve the quality of journalism training.

22. The problems of journalism training have received considerable attention in recent years. The recommendations that emerged from a seminar on the subject conducted by the I.I.M.C. in July 1977, a national level workshop on journalism curriculum at Hyderabad in 1979, a study conducted for the University Grants Commission by the Press Institute of India in 1977 and a Committee of the U.G.C.'s panel on mass communication 1981 are summarised in Appendix XII.3.

#### RECOMMENDATIONS

*Training : desirable, not mandatory*

23. The Press, as an industry, is unique in nature because of its function as a public utility. Similarly, journalism as a profession, is unique in nature. Since



freedom of speech and expression is guaranteed to all citizens, it is open to any citizen to publish and/or edit a newspaper. At the same time, journalism partakes of many of the features of a profession like that of law or medicine. These features include the need for adherence to a set of professional ethics and the possession of the skills of journalism as a craft. It is for this reason that we recommend, on the one hand, that journalism training should be expanded & improved and, on the other, that journalism should continue to require no prior licence for entry. As the MacBridge Commission remarked: "Present day expectations in communication produce an apparent paradox. Demands for knowledge at a higher level; combined with the sophistication of the technologies involved, create a need for ever-greater professional skill, for more professionals in communication activities. But other demands—for democratization, for freedom of expression throughout society, for communication as an exchange instead of vertical dissemination, for decentralization to the localities and communities—generate a desire for 'do-it-yourself' communication in which the non-professional takes an active share. These demands, however hard it may be to reconcile them in practice, are in fact not in opposition to each other."

#### *Role of the Press Council*

24. Both the First Press Commission and the Diwakar Committee on Small Newspapers envisaged a close involvement of the Press Council in promoting journalism training. The First Press Commission which recommended the establishment of a Press Council, envisaged among its functions: "To improve the methods of recruitment, education and training for the profession, if necessary by the creation of suitable agencies for the purpose, such as a Press Institute." It recommended (para 529) that "organisations of newspapermen should advise the Press Council on the possibility of setting up an Institute of Journalism which can keep a watch on the methods of training in the Universities and also conduct refresher courses. Such an Institute should carry out research into the problems of the profession and, if necessary, conduct institutions of its own for training in journalism."

25. The Report of the Diwakar Committee (1965) said (XI.6): "The Press Council which is to be set up shortly, or the Press organisations in the country, would be well advised to constitute a National Council for Training of Journalists in different departments of newspaper production, with branches at various publication centres. The expenses of the National Council and the regional branches should be met by the Central Government. The National Council for Training of Journalists will lay down qualifications for new entrants into journalism and conclude arrangements for practical training with newspapers, periodicals and news and feature agencies."

26. We share the view that journalism training is a proper concern of the Press Council, and have recommended accordingly in Chapter VII:

#### *U.G.C.'s Role*

27. The University Grants Commission in a communication to us says that it is for the universities to list their priorities, including journalism courses. The proposals from the universities are processed by the Commission with the assistance of expert committees. The grants to universities for a particular year for a Plan scheme are released on the basis of the progress of the scheme. The U.G.C. gives grants to universities for both recurring and non-recurring items of expenditure. The latter category includes provision of physical facilities like academic buildings, hostels, staff quarters, laboratories and libraries. Unless earmarked for a specific development, their use is open to all, including students and teachers of journalism. At the beginning of each Plan, the universities are required to send their Development Plans within the specific allocation.

28. Since journalism education is a relatively new discipline in universities, the U.G.C. has prescribed qualifications for recruitment only at the level of Lecturer Appendix XII.4. It has realistically prescribed such qualifications in journalism as are available within the country. While appreciating this, we are of the view that work experience in a newspaper or other communication agency, which is now a desirable qualification, should be made an essential requirement. As regards posts of Reader and Professor in Journalism, we are of the view that there ought to be a balance between academic qualifications and experience. There are subjects that ought to form part of journalism education and for teaching which an M. Phil. or Doctorate can appropriately be insisted on, with the teacher not necessarily being part of the journalism faculty. The imparting of the practical skills of journalism, however, requires experience of many years at responsible level in newspapers or news agencies of repute. Such experience, together with a good academic background, should be deemed to be more than equivalent to M. Phil. or Doctorate.

29. University departments of Journalism should not only utilise teachers in other departments such as Sociology, Economics, Politics and Linguistics but should, to the extent possible, supplement the full-time faculty strength available for the teaching of sub-editing and reporting by drawing on the services of retired editors as well as senior practising journalists, to conduct units of courses on a part-time basis or as Visiting Professors.

30. Estimates of the country's need for trained journalism recruits vary from 500 to 1000 a year. The recruitment will increase greatly in the next two decades an indication of the likely size and the readership profile of the Indian Press in different languages by the year 2001 is provided in Appendix XII.5. It is based on a study (Study No. 240) which the Commission initiated. In view of the considerable growth in the language Press which is to be expected, the need to train manpower for Indian language newspaper has particularly to be

borne in mind. Exceptions apart, practical training in journalism should be imparted in an Indian language besides English.

31. It is pointless for each university to institute a journalism course. However, there should be at least one university or professional training facility of high standard in every major linguistic region.

32. A central body for according recognition to, and supervising the work, of journalism training conducted within and outside the university framework is desirable in principle. At present, the base of journalism training institutions in the country does not seem to be strong enough to sustain an apex body that can carry credibility. On the other hand, the very existence of a professionally respected supervisory body can help to elevate the standards of journalism education. Therefore, we recommend the establishment of a National Council for Journalism Training, preferably to be sponsored by the Press Council of India. It should comprise not only Journalism teachers but also newspapers publishers and editors and distinguished men of letters. Such a Council could institute fellowships for training and research and awards for meritorious performance in journalism on the lines of the Pulitzer Award in the U.S.A. to the extent that such a National Council gains prestige and recognition, it can begin to supervise and certify journalism training. The certifying body need not be statutory. It will be adequate if it wins the recognition of, and elicits, co-operation from, organisations of newspaper editors, journalists, publishers and the Press Council of India. In the second part of this Chapter, on Communication Research, we suggest that the National Council for Journalism Training should also take interest in the wider area of communication research.

33. Journalism training institutes should pay particular attention to the imparting of reporting skills. Reporting in the daily newspapers has not kept pace with the change in the interests and expectation of readers who till a decade or two ago were content to be served with column after column of speeches by political leaders. The new periodicals, which are more lively in their reporting style, are more in tune with the needs of today's readers. However, the emphasis in training for reporting should be as much on problem identification and analysis as on interesting description.

34. Some of our journalists, and writers of advertising copy, still employ bombastic English designed to impress their peers rather than to get across effectively to the reader. In contrast, some Indian language newspapers have made a conscious effort to change over from the literary style of scholarship to popular language. However, crisp reporting and comment need not and should not mean superficial writing.

35. Indian teachers of journalism depend almost entirely on American or British textbooks. The situation needs to be remedied. The Indian Institute of Mass Communication has published a Manual for News Agency Reporters. A style book useful for sub-editors has been brought out by some establishments like PTI and the 'Daily Thanhi'. Preparation of textbooks in the nature of model work books which will serve as practical guides to trainee journalists in Indian languages should be encouraged by training institutions, organisations of publishers and editors, and the Press Council.

36. The number is still small of journalists specialising in reporting on developments in such areas as science and technology, economic affairs, and social change. There is need to encourage specialisation in these fields, both by full-time journalists with the requisite academic background and by subject-matter experts who might welcome orientation courses to enable them to write in simple language on the subjects of their specialisation.

37. We suggest the institution of correspondence courses for training district and block level part-time reporters. When big news breaks in a district, the present practice is to send correspondents from the State capital or the newspaper's headquarters. Peripatetic training teams and training personnel on a part-time basis should supplement more formal, full-time training.

38. We recommend the holding of workshops for exchange of experience among teachers and practitioners of journalism, especially in the Indian languages.

39. Admission to all journalism courses should be after aptitude tests; at present it is often those who fail to enter other professions who turn to journalism.

40. We note that while large numbers of women students are joining the University Departments of Journalism and professional training institutions, the number of women journalists employed by newspapers and news agencies continues to be small, and many of them go into advertising and public relations. Ways should be found to attract trained women journalists in larger numbers to the Press, particularly Indian language newspapers by providing facilities such as transport to their homes after late duty or night shifts.

41. Training should comprehend not only the skills but also the values of journalism, the know-why as well as the know-how. The Indian journalist, he or she—and more especially she—is drawn typically from the middle or upper class, and is likely to have had an urban background. Training should include the necessary correctives. The aspiring journalists should have a social vision and a range of interests wider than of urban middle-class life. If the Press in our country is to be able to play the role we have commended for it in an earlier chapter, those who are preparing themselves to enter the profession should acquire an understanding of the problems and concerns of the majority of our people who live in the villages,

a large section of them below the poverty line. It should be part of training to make the would-be journalist realise that he can—as much as a planner or an administrator or a legislator—contribute to the economic and social betterment of the underprivileged.

42. Trainees should be made aware that, whether as reporters in the field or as sub-editors at the desk, they are going to play a very responsible role as 'gatekeepers' of news.

## B. RESEARCH IN JOURNALISM AND MASS COMMUNICATION

43. The objective of communication research in a developing and democratic country like our should be to ascertain the means of making most widely accessible, in an easily comprehensible and effective manner, information which will promote participation by the largest numbers of people in the process of social and economic change.

44. Communication in a democratic society necessarily means two-way communication. It will have to be a continuous process of message dissemination and feed-back, the feed-back contributing not only to modification of the presentation of messages but also, whenever and to the extent necessary, to the modification of policies and programmes so as to meet the felt needs of people living under diverse social and economic conditions in a large country like ours.

### *Commercial interests and communication research*

45. In India, as in the West, sales promotion of consumer products has provided the main thrust for communication research. Commercial interests have generated the impulse for undertaking, and determined the objectives and methods of, such studies. The *Times of India* among newspapers, and Lever Brothers (as Hindustan Lever then was) among advertisers, were among the first to undertake any kind of communication research. Both were concerned with the reach and effectiveness of newspapers as a medium for advertising.

46. The studies conducted by commercial interests have been oriented to the exploration and study of the markets and the socio-economic features of the consumers. They are concerned with the manipulative effect of communication rather than with eliciting a wide range of responses from the audience regarding their felt needs and problems and sources of information relevant thereto. Market-oriented research has contributed little to the formulation of public policy for the promotion of communication through the mass media as well as inter-personal and traditional forms as aid to and part of the development process.

### *Western notions of development and media role*

47. Communication research in India has tended to be media-centred and source-centred, as in the West. This is in contrast to diffusion research conducted by the agricultural research and extension

institutes in our country, which focus on the receiver of the message. - Mass communication research usually operates on the questionable assumption that mass media play a crucial role in behavioural change. Diffusion research, which has no such pre-conceived notion, has shown that the importance attached to the role of the mass media in developing countries like India is often exaggerated. The reach of these media is largely limited to urban centres, and inter-personal communication continues to be the most important mode of communication in the rural areas where the majority of our population (76 per cent according to the 1981 census) live.

48. It is only slowly that mass communication researchers are becoming aware of the fact that the readers/listeners/viewers of the mass media are not mere passive objects who receive messages but are active subjects with their own responses which include rejection and questioning. This has led to a welcome recognition of the need for democratisation of communication as well as of communication research methodology.

49. The assumptions regarding development and regarding communication prevalent in the U.S.A., where the bulk of communication researchers from developing countries including India have been trained, are of limited relevance in our social and cultural context. The Western approach shared by the ruling elites in developing countries, has tendered to rely on a top-down or centre-to-periphery model. This model ignores or under-rates the decisive influence of the social structure on decision-making by individuals. It assumes, for example, that every farmer who has access to information is free and able to utilise the information, such as regarding the value of digging irrigation channels or using improved seeds, irrespective of the portion of the additional production which he must pay to the landlord as rent, or whether he has security of tenure as a tenant. The top-down model of communication tends to use the literary form of languages with which only the educated are familiar, rather than the dialectal forms of speech which are actually used by the masses.

### *Exposure to mass media*

50. The first real spurt in mass media research covering not only newspapers but also film and radio, was the National Readership Survey conducted in 1970 (NRS-I) by the Operations Research Group, Baroda. This was followed up eight years later in 1978 with another National Readership Survey (NRS-II) by ORG. NRS-I covered 55,622 adults over the age of 15 years who were interviewed in 254 towns (39,817 adults) and 704 villages (15,805 adults). The sample for NRS-II consisted of 45,750 adults over the age of 15 years, in 474 towns. It covered a larger number of publications (365) compared to NRS-I (195).

51. Both the surveys suffered from a number of limitations. Neither of the two was representative of the Indian population. While in the NRS-I sample,

there was a strong bias in favour of the urban population, NRS-II did not cover the rural population at all. Besides, both the surveys were advertisement oriented, concerned mainly with the market for consumer products. Therefore, the ability to recognise the masthead of a newspaper was virtually equated with 'exposure' to that publication. Despite the defects, the Readership Surveys brought out some significant findings. NRS-I broke new ground by popularising the concept of readership of a publication, as distinct from its circulation. It brought out the limited reach of the major English language newspapers, and the potential of Indian language newspapers of modest circulation but local vogue. It thus helped to bring about a shift, however, small, towards rationalisation of advertisement rates as between English and Indian language papers, and as between the metropolis based 'national' newspapers and the regional and local Press. It also brought out the strength and potential of the periodical press, as compared to the daily newspapers, and enabled it to achieve a better status.

52. Both the surveys induced among advertisers and the advertising agencies a greater consciousness of cost benefit and thereby promoted a more rational approach in the choice of media. They also brought out the limited reach of the Press in relation to other mass media (specially in urban areas), and thus led to a reappropriation of advertising outlays in favour of media other than newspapers. NRS-II revealed that readership was larger in the bigger towns, but that its growth rate was higher in towns with less than one lakh population.

#### *Readership profile*

53. NRS-I estimated that in 1970 there were 430 lakh readers. The total circulation of publications covered in the survey having been 144 lakhs, the number of readers per copy was three-to-one. This was the average of the very large number of readers per copy in rural areas as compared to urban. However, the second survey showed that there continued to be many readers per copy even in urban areas. A comparative analysis of individual newspapers showed that Indian language papers had more readers per copy than papers in English.

54. Other interesting findings concern readership by language, the relationship between readership and family income, and readership by sex and age. NRS-I revealed that the number of people exposed to the Indian language Press was several times larger than those reading English newspapers. The survey showed that of the 430 lakh readers, 411 lakh or 95.6 per cent were exposed to Indian language newspapers. Of these, 313 lakh were readers of Indian language papers only, while 98 lakh read both Indian language and English newspapers. Only 19 lakh readers were exposed to the English Press exclusively.

55. Both the surveys showed that readership is the highest in the upper income group and the lowest in the lowest income group. NRS-II revealed that the

gap in the readership as between men and women was the widest in the lowest income group, i.e. those earning below Rs. 250 per month and narrowest among those earning Rs. 1,000 a month or more. The increase in literacy among women is reflected in the readership surveys. In the case of men, readership in the urban areas increased by 88.8 per cent in the period 1970 to 1978. In the same period, readership among urban women increased by 105 per cent. In the case of men, exposure to daily newspapers was more compared to weeklies and other periodicals. Women read periodicals more. Their exposure to dailies and weeklies is almost at the same level. The readership of periodicals is higher among the younger age groups than among the older age groups. According to both NRS-I and NRS-II, exposure to the Press declines with age. The variation has been ascribed to the fact that the literacy rate is generally higher among younger than among the older age groups. The second Survey also reveals that the gap in readership as between men and women is narrowest in the age group of 15 to 24 and widest in the age group of 45 years and above. This is attributable to the increased stress on women's education in recent years.

56. The surveys also reveal that readership is picking up much faster in the sections of the population having education below higher secondary level. Apparently readership among the college-educated class had almost reached the saturation point while there was a lot of leeway to be made up among people having education below higher secondary.

57. Between 1970 and 1978 there was not only an increase in the number of people exposed to the Press but also in the number of publications read per reader. The increase was more marked among men than among women. It was observed that the number of readers per copy of periodicals was higher compared to that of dailies.

#### *Need for localised communication*

58. The Satellite Instructional Television Experiment (SITE) during 1975-76 provided occasion for the breaking of some new ground in communication research. In addition to survey research methods for study of the popularity of SITE programmes in the experimental villages and their impact there in comparison with control villages, the Indian Space Research Organisation (ISRO) arranged for holistic studies by anthropologists in seven villages: one each in the six clusters served by the satellite and, in addition, one village, Dadusar, served by the Pij terrestrial transmitter. (It may be recalled that in addition to the six clusters served *via* satellite, a low-power terrestrial television transmitter at Pij, in Gujarat, telecast a one-hour programme each evening. About 500 conventional television sets were installed in 355 villages of Kheda district, with more than one set in several villages, against 2,400 sets in as many villages all over the country for direct reception of the signals from the satellite). The Pij transmission comprised the half-hour national programme of SITE

in Hindi telecast through rediffusion, and a half-hour Gujarati programme prepared at Ahmedabad under the auspices of ISRO. In several programmes the Charautari dialect prevalent in Kheda district, instead of standard Gujarati, was employed. The anthropologists lived for about a year and a half in the respective villages for data collection and continuous observation prior to, during and after the conclusion of SITE. Their findings have been written up by Dr. Binod Agrawal in a report\* that says *inter alia* :

"The linguistic profile of these villages shows a higher use of dialects than the standard language of the region... None of the languages spoken in the villages were used on TV except in Dadusar where Charautari was utilised to some extent. Furthermore, the use of English-sounding technical names (in programmes on agriculture and animal husbandry) compounded the problem... If the programmes were entertaining enough in terms of songs and dances, language did not become a barrier. Due to this reason, recreational programmes of other clusters were viewed with enthusiasm in all the villages... The Hindi common news was almost ineffective in all villages... The problem of lip synchronisation affected the credibility of the TV medium to an extent (in Andhra Pradesh and Karnataka which used one video and two audio channels)."

The extract quoted above speaks volumes about the severe limitations of centralised communication and the need, if communication is to be effective, for decentralised preparation of messages, addressed to specific rural communities in the dialects which they actually speak. The findings are of relevance for the further growth of the Indian language Press.

#### COMMUNICATION RESEARCH AGENCIES

59. The four major categories of agencies engaged in communication research are : (i) All India Radio/Doordarshan; (ii) Indian Institute of Mass Communication; (iii) Management Institutes and other professional bodies, including the National Institutes for Community Development and Family Planning, the Indian and Eastern Newspapers Society, and Audit Bureau of Circulations; and (iv) University Departments of Journalism.

##### *All India Radio*

60. The findings of the audience research conducted by All India Radio and Doordarshan are generally not available to researchers and the public. In reply to a letter addressed by the Commission on this subject, the Ministry of Information and Broadcasting said : "The Reports of the Audience Research Unit in Akashvani and Doordarshan specifically relate to AIR/DD Programmes. Hence, it is felt that there is

no need to make these reports public. However, All India Radio has already issued instructions to various Audience Research Officers to send their Study Reports to selected Departments of State Governments, e.g. Information, Education, Agriculture, etc., and obtain their reactions. As far as the findings of their studies relating to Commercial Broadcasting Service are concerned, they sell the data to Advertising Agencies/Advertisers. They also, on request, supply the Study Reports which contain general information, to outsiders. It is felt that we need not issue general orders regarding the publication of our research findings."

61. We are of the view that it will be in the public interest to know how much listening there is to the various programmes addressed to different sections of the urban and rural population. In the absence of such information, there has been little realisation of the need to organise community listening/viewing facilities for social education programmes : it is assumed that they are proving useful to the rural population, while in fact the rural access to radio and television is minimal in the greater part of the country

62. One limitation of the Audience Research of All India Radio is that it confines itself almost entirely to members of families owning radio or television sets, whereas the majority of listeners and viewers are non-owners. Another limitation of audience research is that it does not generally take into account the audience below the age of fifteen. The reason is perhaps that commercial advertisers on radio or television are interested only in the adults who make purchase-decisions in homes which own radio/television sets and which are prosperous enough as a potential market for the goods that are advertised. Audience measurement has doubtless helped All India Radio in its sales promotion of commercial broadcast time and in raising the rates charged from time to time. The revenue derived by AIR from commercial advertising has increased from Rs. 19 lakhs in 1967-68 to Rs. 1,140 lakhs in 1980-81. In the case of Doordarshan, income from commercials has gone up from Rs. 207 lakhs in 1977-78 to Rs. 809 lakhs in 1980-81. The question is whether the approach of Government-run radio and television to communication research should be commercially oriented, in the same way as the research sponsored by advertisers and advertising agencies. There appears to be need to make the audience research of AIR/Doordarshan more broad-based so as to cover non-owning listeners/viewers as well as the adolescent audience. We are of the view that the research design and findings should be made accessible to qualified researchers for the mutual benefit of AIR/Doordarshan (who ought to have critical appraisal of their research methodology) and to the academic community of communication scholars (through access to data on the reach and impact of the electronic media).

##### *I.I.M.C.*

63. At the Indian Institute of Mass Communication, communication research is conducted by two

\*Binod C. Agrawal "Television comes to a Village : An Evaluation of SITE", ISRO, Ahmedabad, October, 1978 (mimeo).

departments : the regular Department of Communication Research, manned by staff employed on a long-term basis and undertaking studies initiated by the Institute itself or commissioned by other organisations; and the Department of Evaluation Studies which is funded by the Ministry of Information and Broadcasting from Plan period to Plan period, and which mostly undertakes studies of the reach and impact of the official information media. The studies of the Department of Evaluation Studies are treated as confidential. We were informed by the Ministry of Information & Broadcasting in the course of the letter referred to earlier that : "The Evaluation studies specifically relate to programmes/performance of the media units and go into the question of their relative reach, cost and impact etc. Those findings and conclusions are primarily meant for helping them in achieving optimum results. It is felt that there is no need to make such studies public". As in the case of AIR/Doordarshan, we are of the view that the findings of research should be within public knowledge.

64. Some of the studies carried out by the Institute's Department of Communication Research have been published, either in the form of brochures or in the Institute's quarterly journal *Communicator*, in recent years. We are of the view that the I.I.M.C. should publish the findings of its communication research as a matter of course.

#### Professional Institutes

65. A brief survey of the communication research work done by the National Institute of Community Development, Central Institute of Family Planning, Indian Institute of Management, Ahmedabad, and the Centre for Development of Instructional Technology (CENDIT) is given in Appendix XII.6.

#### University Departments

66. Given the constraints of the University departments of journalism discussed in the earlier section, the contribution made by them to communication research in the country has not been substantial. However, some of the universities have conducted useful studies, among which might be mentioned "Grass Roots Press : A Case Study of TELUGU RYOT", carried by *Interface*, half-yearly journal of the Osmania University's journalism department in 1979 (it brought out the fact that the readers of this Telugu weekly served also as vigilant reporters).

### ISSUES FOR RESEARCH

67. The areas that remain to be explored by communication research and the questions to which it should seek answers are very wide indeed. Some of them are : the social effect of the increasing depiction of violence and sex in the media; the relative contribution of the Press and other media to the strengthening of national integration; and the extent of contribution made by newspapers and other media to the promotion of adult literacy and women's education

and improvement of the functioning of municipal and Panchayati Raj institutions.

68. Among questions pertaining specifically to the Press that could be taken up for study are :

- (i) What do readers and potential readers, specially in the rural areas and small towns where there is a large market to be tapped, think of the information now given by newspapers, and what is it that they would like to have instead or in addition ?
- (ii) What is the effect of the convention of newspapers carrying every day a lead story and a second lead, irrespective of the importance of the events, and does the tyranny of this custom blow up trivial incidents or conflict situations out of proportion ?
- (iii) The vocabulary used by newspapers in the various languages and the degree of its comprehensibility to different sections of the urban and rural population;
- (iv) What role can the Press play in promoting the literacy programme; specifically, would it be useful if daily newspapers carry a regular section in bold type and simple language, on subjects of interest to rural neo-literates ?
- (v) In what ways can such groups as trade unions, women's organisations and Panchayat Samities be encouraged to utilise the columns of newspapers so that communication through the newspaper medium becomes more widely participatory ?

69. Questions such as the above, it will be evident, are of no direct interest to commercial advertisers, to whom economic development and a more egalitarian social order are important only indirectly as the ultimate conditions for an expanding market. Communication research can become socially relevant and useful only to the extent that it frees itself from its commercial moorings and becomes an instrument for promoting non-formal or social education. We trust that the University departments of journalism/communication and professional institutes like the I.I.M.C. and the Press Institute of India will undertake studies, based on appropriate methodology, aimed at finding answers to issues such as those which we have identified.

70. It is desirable that institutions engaged in communication research should keep each other informed of their present and proposed studies, since it will help to avoid duplication. A positive effort at co-ordination of communication research studies is also to be commended, on the basis of each institution taking up studies most appropriate to its functional

responsibilities and resources including professional manpower.

71. We have suggested in the section on Journalism Training that an apex body for journalism training can emerge appropriately with the strengthening of the calibre and resources of the training institutions at the base. We have noted that, increasingly, the tendency is, and rightly so, for professional institutes and University departments to teach, and to undertake research studies, in the wider area of communi-

cation rather than newspaper journalism only. It will be fitting for an apex body to concern itself with the promotion and co-ordination of communication research, with particular reference to newspapers, besides the improvement of journalism training. Such a National Council for Journalism Training and Communication Research might be sponsored jointly by organisations of newspaper publishers and editors, the Press Council and the proposed Newspaper Development Commission with support from AIR/Deordarshan.





### XIII. ABSTRACT OF RECOMMENDATIONS

Chapter No.  
Paragraph No.

Recommendations

#### CHAPTER I

##### INTRODUCTION

- I.17 Copies of the various studies initiated by the Commission, and of the Working Papers and General Papers prepared by its secretariat, may be made over to appropriate institutions such as the Indian Institute of Mass Communication and the Research & Reference Division of the Ministry of Information & Broadcasting for future reference.

#### CHAPTER II

##### RETROSPECT : 1952—1982

- II.14 On account of growth in the circulation of newspapers since 1968 when the Press Registrar began the classification of newspapers as 'big', 'medium' and 'small', the definitions call for reconsideration. The Press Registrar classifies, on the basis of circulation, newspapers as 'small' or 'medium' even if the newspapers belong to newspaper undertakings of very large size, bringing out other dailies and periodicals with big circulations. We are of the view that the Press Registrar should identify clearly, in the statistics presented in his annual reports, the number and names of the newspapers that are classified as 'small' or 'medium' but which belong to big newspaper undertakings.

#### CHAPTER III

##### ROLE OF THE PRESS

- III.7 The role of the Press in a developing and democratic society should neither be that of an adversary nor an ally of the Government. To be a mindless adversary or an unquestioning ally would be to abdicate judgement. A free Press should be, in our view, a constructive critic.
- III.19 Elsewhere in the Report we make a wide range of recommendations to protect small and medium newspapers from unfair competition and to provide assistance for acquiring printing machinery, securing teleprinter services and newsprint at reasonable price, etc. We would like to emphasise that it is not our intention to encourage localism or scandal and blackmail—failings which are not confined to newspapers of any particular category of circulation. While providing information of relevance to readers in the villages and small towns, the district level newspaper should also keep them posted, even if not in detail, with significant national and International news in the fields of politics, science and technology, sports and culture.
- III.23 Editors should insist on their right to have the final say in the acceptance or rejection of advertisements, specially those which border on or cross the line between decency and obscenity, legitimate claims for a product or service and the proffering of magical remedies.
- III.24—25 Exploitation of the female form in commercial advertising promotes the notion of women as sex objects and runs contrary to the news items and articles which many newspapers carry in support of treating women as equals and respecting their personality as individuals endowed with as much human worth as males. We recommend in Chapter VIII that the Press Council should examine complaints of violation of the codes of ethics governing advertising. However, the editor himself can stop the mischief at the source if he assumes responsibility, as he should, for all the matter published in his newspaper including advertisements.
- III.26—27 The editor's authority should extend not only to the contents of advertisements but also to the proportion of space devoted to them. The editor should also have the right to veto a particular positioning of advertisements that he may regard as undesirable.

Chapter No./ Paragraph No.	Recommendation
III.29	Editors of general interest dailies and priodicals who believe in promoting a scientific temper among their readers, and in combating superstition and fatalism, should discontinue the publication of astrological predictions.
III.32.	A newspaper's perception of a particular problem of foreign relations may differ from that of the Government, the expression of such a difference should not be regarded as anti-national.
III.33	While the Press should exercise the utmost responsibility and restraint in publishing or commenting on sensitive information of possible value to an unfriendly government in the event of hostilities, it ought to evince a greater degree of interest in defence matters.
III.43-44	We generally endorse the guidelines formulated by the Press Council in November 1968 for avoidance of 'objectionable communal writing'. We are of the view that, on the outbreak of a communal disturbance, newspapers should refrain from sensational presentation of the news and from giving community-wise figures of those killed and injured. However, when the situation gets stabilised, there should be no hesitation in investigating the causes of the rioting and its consequences, with identification of the communities concerned.
III.43-44	Communal tensions have economic, social and political causes. There have even been allegations of foreign money at work. These causes should be investigated and exposed. We are of the view that suppression of truth would worsen rather than improve the atmosphere. However, it is difficult to lay down hard and fast rules, and a newspaper should, so to say, play it by the ear, in accordance with the circumstances of each case and with due sense of responsibility.
III.45	We recommend that there should be stricter enforcement of the provisions in the Indian Penal Code with regard to communal incitement.
III.48	There should be dialogue between the civil administration and local newspapers on norms and procedures for informtion flow, verification and correction, during periods of tension and crisis. Professional bodies of journalists should arrange for the exchange of experience in this regard in various parts of the country.
III.51	Journalists have to be on guard against attempts by the authorities or by landlords to pass off agrarian revolts against exploitation as Naxalite or other politically motivated violence.
III.53	We are of the view that the positive role of the Press—of bringing together the diverse elements in the nation's life by emphasising those aspects which tend towards unifying the communities—is as important as avoidance of objectionable communal or casteist writing. This calls for a sustained campaign to promote the concept of human brotherhood taught and exemplified by the founders and the saints of all religions.
III.55	Superstitious beliefs which are unrelated to the essence of religions and are inimical to physical and social health must be relentlessly exposed and fought.
III.57	The Press must address itself to the question of what contribution it is making to the strengthening of the moral fabric of society and discouraging the trend towards conspicuous and excessive consumption which a developing country can ill afford.
III.58	If illegitimate actions like insurrection and secessionist activity have their roots in economic neglect or exploitation or apprehension of loss of cultural identity, the Press can play a useful role. on the one hand by bringing those causes to public notice and on the other by advocating adherence to lawful methods of ventilating grievances.
III.61	While the Press should bring to light and extend support to genuine public grievances, it should take a forth-right stand against unconstitutional methods of agitation.
III.63	The Press will have to campaign for judicial reforms to speed up the legal process and continue to resolutely expose and condemn brutal methods of dealing with suspected criminals.
III.75.	There is need to give news values a different orientation in the interest of social health and national development. We would urge the organisations of publishers, editors and journalists to pay attention, on a continuing basis, to the question of the values that should govern the selection and display of news items.

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Recommendation

- III.77 In addition to measures to encourage the growth of newspapers in the interior and border areas, it is in our view that important newspapers in the rest of country should devote more space to news about the progress and problems of people living in such areas.
- III.79 Some widely read newspapers in regional languages besides English have taken to reporting regularly on developmental topics and major socio-economic issues such as the conditions of the garden labour, problems of drought and irrigation, 'dowry deaths' and the general ill-treatment of women, the plight of under-trial prisoners and the living conditions of urban slum dwellers. This is a welcome trend which should be encouraged and strengthened.
- III.81-82 Development reporting should tell the story of what is going well as well as of what is going wrong. It should investigate into the reasons for success as well as for failure, at different places under different conditions, of various development programmes affecting the lives of common people. Most of our newspapers merely carry official handouts. The reporting of non-official initiatives in rural development, etc., is even less extensive than of official development programmes. The free Press in a developing country should be more socially conscious and enterprising.
- III.84-85 We welcome the trend towards investigative reporting insofar as it is oriented to social and economic issues. The investigative reporter should not give occasion for the criticism of lack of follow-up which is a widespread failing in the Indian Press.
- III.90 We acknowledge that there could be risks in development reporting, as when a reporter exposes local tyranny and oppression. We recommend that the State Governments should see that investigative reporters do not come to harm. Public opinion should assert itself in this matter.
- III.93 We recommend that public grievance columns should be more widely offered by newspapers and that the public authorities concerned should take note of the grievances published and take prompt action.
- III.95 It is important that both the Government-owned media and the Press should be conscious of the need for fair and objective presentation of news.

CHAPTER IV

CONSTITUTION AND LAWS

*The Constitutional Guarantee of Freedom of Speech and Expression*

- IV.4 No useful purpose will be served by inserting a separate provision in the Constitution on freedom of the Press as that concept is already embodied in Article 19(1)(a) and by inserting such a provision no particular benefit can be conferred on a non-citizen like a company.
- IV.14 Since many newspapers are published by companies and a company is not entitled to the fundamental rights enumerated under Article 19, being not a citizen, we recommend that all Indian companies engaged in the business of communication and whose shareholders are citizens should be deemed to be 'citizens' for the purpose of the relevant clause of Article 19.
- IV. 18 The concept of a free market of ideas presupposes that every type of idea will get into the market. If free access is denied to any idea, to that extent the competition of ideas becomes limited. Our constitutional law has been solicitous in protecting an idea when once it comes into the market but has been singularly indifferent in creating opportunities for its expression. We are in the grip of a romantic theory of freedom of speech viz., the belief that the market place is freely accessible. With the revolution in communication technology on the one hand and the newspapers' development of an antipathy to ideas which are opposed to its commercial interests on the other, the operation of a market place of ideas has ceased to exist. The constitutional issue generally is whether the expression already uttered should be given the shelter of Article 19(1)(a). But what of those ideas which are unacceptable to the media and which do not find access therein? The usual answer is that Article 19(1)(a) guarantees freedom of the owner to do as he chooses with his media. This answer stresses the view that a newspaper is emphatically the private property of the owner who sells a manufactured product at his risk; a newspaper owes nothing to the public which grants it no franchise. Thus the constitutional imperative of free expression becomes the very instrument for repressing competitive ideas. The freedom guaranteed by Article 19(1)(a) must be reviewed in this light.

- IV.20 There is a wrong notion that apart from the reasonable restrictions that could be imposed on the freedom of the Press under Article 19(2), there could be no other interference in the exercise of that freedom. What Article 13(2) forbids is the making of any law which has the effect of 'taking away' or 'abridging' any fundamental right. There can be no ambiguity or controversy when a right is completely 'taken away' and such action would be clearly hit by Article 13(2). In the case of abridgment, however, one has to distinguish between 'abridgment of speech' and 'abridgment of freedom of speech'. Moiklejohn put it rightly when he said that the First Amendment to the U.S. Constitution, though couched in most absolute terms, viz., "the Congress shall make no law abridging freedom of speech or Press", did not forbid "abridging of speech" but that it did forbid 'abridging of freedom of speech'. Difficulty may arise in the application of the term 'abridge' where a law, rule or regulation is designed to accomplish an object other than abridgment of freedom of speech and the impact of such law, rule or regulation upon freedom of speech is secondary, incidental or indirect. In such cases the cardinal principle is that there is no abridgment of the freedom unless the 'content' of speech itself is regulated.
- IV.21 Economic and tax measures, legislation relating to social welfare and wages, factory laws, etc., may have some effect upon freedom of the Press when applied to persons or institutions engaged in various forms of communication. But where the burden placed on them is the same as that borne by others engaged in different forms of activity, it does not constitute abridgment of freedom of the Press. The use of such measures, however, to control the 'content' of expression would be clearly impermissible.
- IV.22 Article 13(2) does not forbid regulation of the exercise of freedom of speech. No doubt, the freedom enjoys the protection of Article 19(1)(a), but the manner of its exercise or its collateral aspect is beyond the scope of that sub-article. For example, blaring a speech through a microphone in the dead of the night disturbing the sleep of others or littering the streets with copies of the text of a speech could certainly be prohibited by law in spite of Articles 19(1)(a) and 13(2). Regulation does not hinder or curtail freedom of speech, in fact it can help promote freedom of speech. For freedom of speech to be meaningful in an assembly of persons, regulation of 'speech' is absolutely essential if it were not to degenerate into a cacophony of words. A meeting cannot even be opened unless, by common consent, 'speech' is abridged. If one man has the floor, no one else may interrupt him except as provided by the rules. Freedom of speech does not mean that every individual has an inalienable right to speak whatever, whenever, wherever, however he chooses. The commonsense of any reasonable society would deny the existence of any such unbridled right. Thus general regulatory statutes not intended to control the content of speech but incidentally limiting its unfettered exercise do not infringe Article 19(1)(a) when they are justified by valid governmental or societal interests.
- IV.27 Journalism is not merely an industry; it is a public service and a profession. The American Commission on Freedom of the Press likened the newspaper industry to a public utility or a public carrier. As our first Press Commission observed, news and views which newspapers sell, serve not only an informative aspect but also an educational and a propagandist aspect. Newspapers influence opinion, conduct and action in political, social, economic and cultural fields. People have vital interest in the accurate and fair presentation of news and views. The news and views which newspapers purvey carry with them a vital public interest that needs to be safeguarded. Whereas profit motive may operate in the public interest in the case of other industries, it may require regulation in the case of newspaper industry. Taking these factors together, there can be no doubt that a newspaper is essentially a public utility and whatever be the precise form of ownership of newspapers, the exercise of ownership rights has to be subject to some measure or restraint and regulation. Public interest is the criterion that should regulate this activity.
- IV.29 Thus the Press has a social responsibility and accountability to the public. The theory that the freedom of the Press knows no restraint is gone. The traditional individualistic theory which has inspired the existing law and social attitude is insufficient to meet its problems. That theory emphasized only the freedom of one party, namely the issuer of the news, and completely ignored the other party, namely the public. In the changed situation, the protection of the freedom of the issuer alone is not sufficient, the freedom of the consumer must also be protected.

- IV. 30 The people are wholly dependent on the Press for the primary data of their political thinking. They are not passive renders of news. It is an entire community of varying minds which the Press must serve with its raw material for thought. Between the right of editors and publishers to express themselves, and the right of the public to be served with a substantial and honest basis of facts for judging public affairs, it is the latter which today tends to take precedence in importance. A realistic view of Article 19(1)(a) has to recognize that right to expression is somewhat thin if it can be exercised only at the sufferance of the managers of mass communication. While we recognise that the majority in a democracy may occasionally exercise its power to throttle opportunities for discussion, we do not seem to realise that non-governing minorities who control the machinery of communication can also throttle ideas before their birth.
- IV. 33 There is no reason why the services of the Press should not be available to citizens for exercise of their fundamental right of freedom of speech and expression on a non-discriminatory basis subject, of course, to availability of space and other relevant considerations. A revised, realistic view of Article 19(1)(a) should permit encouragement of expression by providing not only for its protection 'after publication' but also for its 'emergence by publication'. The Press Council should be empowered to look into complaints of arbitrary and *mala fide* denial of access to the Press. Sarvashri Girilal Jain, Rajendra Mathur, S. K. Mukherjea, H. K. Paranjape and Ishrat Ali Siddiqui are not in favour of this recommendation.
- (2) *Pre-Censorship*
- IV. 38 While we do not think it is proper to say that the power of censorship can be exercised only in circumstances which justify the invocation of the provisions relating to declaration of emergency under Article 352 of the Constitution, we think that the power should be invoked only in cases of extreme necessity in the national interest, while the situation cannot be saved without resort to this power. Dr. H. K. Paranjape, disagreeing with this view, holds that precensorship is justified only in times of emergency as defined in the Constitution. He is further of the view that even if Article 19(2) of the Constitution permits censorship at other times, there should be a convention that the power should not be used.
- (3) *Right to Information and Official Secrets Act*
- IV. 52 Section 5 of the Official Secrets Act, 1923 may be repealed and substituted by other provisions suited to meet the paramount need of national security and other vital interest of the State as well as the right of the people to know the affairs of the State affecting them. It is essential, in our view, to restrict the operation of Section 5 by prescribing the types of information which need protection from disclosure. These types or categories will necessarily be broad, but primarily it will be the task of the executive to determine whether a document falls under any of the specified categories. In this respect we think that the provisions of Part II of the British Freedom of Information Bill may be adopted with appropriate modifications and changes. The other provisions in the Official Secrets Act may be carefully examined by an expert body to see which of them deserve modification and thereafter those provisions could also be incorporated in the new legislation proposed.
- IV. 53--56 Several countries have enacted legislation to ensure a measure of access to the citizen to official information. It is only appropriate that we should have some provision enacted for this purpose. The legislation can be modelled on the provisions of Part I of the British Official Information Bill with appropriate changes. The suggestion in the Bill is that complaints about rejection of an application for official access will lie only to the Parliamentary Commissioner. We think that it is only proper that we adopt this method instead of entrusting the task to the courts. The draftsmen will have to think of a functionary corresponding to the Parliamentary Commissioner in U.K. for entrusting the work of review. Shri K. R. Ganesh is opposed to any legislation to confer the Right to Information in the present situation in which the country is faced with internal and external threats to its stability and security.
- (4) *Disclosure of Sources of Information*
- IV. 65 We are of the view that there is no absolute immunity for journalists from disclosing their sources of information. However, we have noted section 15(2) of the Press Council Act, 1978 which provides that no newspaper, news agency, editor or journalist shall be compelled by the Council to disclose the source of any news or information. The public interest in the free flow of information and hence in protecting a journalist's source of information has to receive wide recognition

in our country. The strength of the public interest involved will vary from case to case. The court will have to weigh in each case the public interest in doing justice in a case against the public interest involved in the free flow of information through protection of the confidential source of information. Sarvashri Girilal Jain, Rajendra Mathur, S. K. Mukherjee, H. K. Paranjape and Ishrat Ali Siddiqui do not agree with this view. They hold that journalists should be compelled to disclose their sources, if at all, in extreme cases only and that too in confidence to a judge or a judicial Officer, and any changes in laws that may be necessary for this purpose should be made.

(5) *The Law of Defamation*

IV.69—70

We recommend that provisions in Section 4 of the British Defamation Act, 1952, be introduced in India. This Section provides that in a case where a publisher establishes that he unintentionally published words complained of and that he exercised all reasonable care in relation to the publication, he may make an offer to the claimant which would include an offer to publish a suitable correction and an apology. If the offer is accepted, proceedings in respect of the publication are barred. If the offer is rejected, the publisher can plead the rejection of the offer as a defence, provided he establishes in addition to his innocence that the offer was made as soon as practicable after the defendant received notice that the words were defamatory of the plaintiff.

IV.71

We recommend the adoption of the principle underlined in Section 6 of the British Defamation Act, 1952, in our law of defamation by the enactment of suitable legislation. This Section says that in an action for libel or slander in respect of words consisting partly of allegations of fact and partly of expressions of opinion, a defence of fair comment shall not fail by reason only that the truth of every allegation of fact is not proved if the expression of opinion is fair comment having regard to such of the facts alleged or referred to in the words complained of as are proved.

IV.72

Section 8 of the British Defamation Act 1952 provides that a fair and accurate report in any newspaper of proceedings of cases publicly heard before any court exercising judicial authority within the United Kingdom shall, if published contemporaneously, with such proceedings be privileged provided that nothing in the section shall authorise the publication of any blasphemous or indecent matter. The privilege spoken of here is absolute privilege. We recommend that this provision be incorporated in India but dropping the proviso regarding "any blasphemous or indecent matter".

IV.73

We approve the recommendation of the Law Commission of India which, in its 42nd report, suggested the amendment of section 500 of the Indian Penal Code to read as follows :

"(1) Whoever defames another shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

(2) Where the offence has been committed by publishing an imputation in a newspaper, the court convicting the offender may further order that its judgment shall be published in whole or in part, in such newspaper as it may specify.

(3) The costs of such publication shall be recoverable from the convicted person as a fine."

We do not, however, favour the adoption of the 'explanation' added to the section as passed by the Rajya Sabha on 23rd November 1978. That explanation reads as follows :

"The court may, before passing a sentence under this section, take into consideration the question whether the guilt of the accused is aggravated by the plea and the nature of the evidence adduced to prove or disprove it."

IV.74

We recommend that the schedule to the British Defamation Act, 1952, be adopted in India with certain modifications. Part I of the Schedule gives statements having qualified privilege without explanation or contradiction and Part II gives statements privileged subject to explanation or contradiction. We would favour modification of the entries in the Schedule as follows:

## PART I

*Statements privileged without explanation or contradiction*

- (1) A fair and accurate report of any proceedings in public of the legislature of any foreign country.
- (2) A fair and accurate report of any proceedings in public of an international organisation of which India is a member, or of organisations recognised by the United Nations or of any international conference to which the Government of India sends a representative.
- (3) A fair and accurate report of any proceedings in public of an international court.
- (4) A fair and accurate report of proceedings before a court of any foreign country.
- (5) A fair and accurate report of or extract from any register kept in pursuance of any Act of Parliament or State Legislature which is open to inspection by the public or of any other document which is required by the law of any part of India to be open to inspection by the public.
- (6) A notice or advertisement published by or under the authority of any court, tribunal or commission of enquiry or committee of investigation constituted by any lawful authority in India or any judge or officer of such a court.

## PART II

*Statements privileged subject to explanation or contradiction*

A fair and accurate report of :

- (7) The findings or decisions of any of the following associations or of any committee or governing body thereof, that is to say,
  - (a) an association formed in India for the purpose of promoting or encouraging the exercise of or interest in any art, science, religion or learning, and empowered by its constitution to exercise control over or adjudicate upon matters of interest or concern to the association, or the actions or conduct of any person subject to such control or adjudication.
  - (b) an association formed in India for the purpose of promoting or safeguarding the interests of any game, sport or pastime to the playing or exercise of which members of the public are invited or admitted, and empowered by its constitution to exercise control over or taking part in the game, sport or pastime.
- (8) The proceedings of any meeting in any part of India of :
  - (a) any local authority or committee of a local authority or authorities ;
  - (b) any justice acting otherwise than as a court exercising judicial authority ;
  - (c) any commission, tribunal, committee or person appointed for the purpose of any inquiry under an Act of Parliament or State Legislature by the appropriate government ;
  - (d) any person appointed by a local authority to hold a local inquiry in pursuance of any Act of Parliament or State Legislature ;
  - (e) any other tribunal, board, committee or body constituted by or under, and exercising functions under an Act of Parliament or State Legislature, not being a sitting admission to which is denied to representatives of newspapers and other members of the public.



(9) Proceedings at a general meeting of a company or association constituted, registered or certified by or under any Act of Parliament or State Legislature, not being a private company within the meaning of the Companies Act.

(10) Any notice or other matter issued for the information of the public by or on behalf of any Government Department, officer of State, local authority or chief officer of police.

There is one other provision in the British Defamation Act which extends the privilege subject to explanation or contradiction, *i.e.*, to a fair and accurate report of any public meeting. We feel that it is not desirable to introduce this provision in India.

IV.77 It has been represented to us that truth should not be a complete defence unless it is accompanied by public interest. This question engaged the attention of the Australian Law Reforms Commission and it was of the view that truth, by itself, should be a complete defence in civil actions as 'public benefit' is a vague term and publishers are entitled to a clear guidance as to the rules binding them. The requirement of public benefit would be adding too much of a burden on journalists. We see no reason for any departure from the present position. Truth alone should continue to be a complete defence.

IV.78 In regard to defences in libel cases, we endorse the following recommendations of the Australian Law Reforms Commission :

"The Commission believes that it should be a defence to the publication of defamatory matter that the matter complained of is true. Matter should be regarded as being true if the matter, and any imputation in the matter relied upon in the action by the plaintiff was in substance true or in substance was not materially different from the truth. In determining the effect of the publication for the purpose of assessing damages, the court should have regard to the whole of the publication and the extent to which the defendant proves the truth of the matter concerning the plaintiff in the publication."

IV.79 *Right of Reply*

The law of defamation in India, in common with the law of England, awards damages to redress the wrong done. It makes no use of *recompense* (*droit de reponse*) or the "right of reply" which is an important remedy in the Continental legal systems. We suggest elsewhere (in the Chapter on the Press as a Public Utility) a limited right of reply and its enforcement through the Press Council.

IV.80 *Place of Filing of Suit*

On the question where a suit for defamation should be filed, we are of the view that the present position should continue. We do not agree with the view that proceedings for defamation against newspapers and periodicals should be initiated in the first instance in a court, civil or criminal, in the State from where the newspaper is published as it will be discriminatory. We, however, think that unless there is a *prima facie* case of malice the Magistrate should dispense with personal appearance of the accused. Clause (1) of section 205 of the Criminal Procedure Code, 1973, may be suitably amended to provide that in criminal complaints for defamation, unless there is a *prima facie* case of malice, the Magistrate shall dispense with the personal attendance of the accused wherever summons is issued and permit him to appear by a pleader; but the Magistrate may not dispense with the personal attendance of the accused, where the accused is an editor, publisher or proprietor of a newspaper or periodical, if he is satisfied that the accused has unreasonably refused to publish, within a reasonable time, a reply of the complainant to the alleged defamatory publication. However, we are not proposing any interference with the wide discretion of the Magistrate conferred by section 205(2) to direct personal attendance of the accused at any subsequent stages of the proceedings.

#### *The problem of multiple publication*

IV.81 Regarding the problem of multiple publication we endorse the following recommendation of the Australian Law Commission : "The rule as to separate publication should be abrogated and a single publication rule adopted. The multiple publication of particular material should give rise to one cause of action only but, in such an action, the plaintiff should have relief appropriate to all publications. This rule could, however, give rise to unsatisfactory results where

## IV.81 (contd.)

a plaintiff was unaware of the extent of the multiple publications and therefore, did not seek appropriate remedies. The suggestion of allowing the court a discretion to permit the plaintiff to bring further proceedings in respect of the same matter is a flexible approach but it may result in uncertainty. Even after an action is determined, a defendant may be in doubt whether further proceedings may be brought against him. The position of a plaintiff who discovers that a publication received wider coverage than was first apparent is not entirely clear. Certainty is important to the parties. Moreover, it is desirable that the courts have full information as to the extent of publication in determining relief in the first action. The defendant is likely to know the extent of publication; he should be encouraged to disclose it. Accordingly, the plaintiff should be limited to a single action in respect of a multiple publication but only to the extent disclosed in the action. The plaintiff will have a separate right of action in respect of any additional publication. This will automatically cover any further publication after the first trial as well as any publications which the defendant failed to admit. The provision will leave no doubt as to the rights of the parties. A defendant who makes full disclosure will be liable, if at all, for the multiple publication ones for all. A plaintiff who discovers undisclosed material is certain that the court will entertain his action.

*Joint responsibility for publication*

## IV.82

About joint responsibility for publication, the following statement of law by Gatley is most appropriate :

"Where a person has published defamatory words on an occasion of qualified privilege the privilege only will only be defeated so far as he is concerned if he himself is malicious, or if he is liable on the basis of respondent-superior for the malice of a servant or agent."

The incorporation of this principle in our law would mean that :

- (1) A publisher of a newspaper will continue to be vicariously responsible for the malice of his agent ;
- (2) A publisher of a newspaper will not be vicariously responsible for the malice of an independent contractor ; and
- (3) A publisher of a newspaper will not be vicariously liable for the malice of an unsolicited correspondent, whether anonymous or otherwise.

## IV.83

On the question of liability of distributors and printers, we suggest that the recommendations of the Faulks Committee in England be incorporated in our law. The Committee said that at present distributors of written publications, e.g., booksellers, newsagents and newsvendors enjoy the special defence of innocent dissemination which is not available to the first or main publishers of a work, namely, that :

- (a) they did not know that the book or paper contained the libel complained of ;
- (b) they did not know that the book or paper was of a character likely to contain a libel ; and
- (c) such want of knowledge was not due to any negligence.

The Faulks Committee recommended the extension of the above defence of innocent dissemination to printers subject to the same or similar conditions or safeguards as in the case of distributors. The Committee said that the result of this recommendation is that, where printers are put on inquiry as to the potentially defamatory character of the work complained of, or are in any way negligent in failing to inquire in relation to any given work, the defence of innocent dissemination will fail; equally, in the normal course of their business of everyday printing they will have a defence which, if the experience of distributors is any guide, will ensure that they are normally not even joined as defendants.

As regards translations, we are of the view that protection should be given to the translator but not to the publication of offending matter in translation.

*(6) Contempt of Court*

- IV.88 We think that it is not necessary to adopt the summary procedure in vogue for dealing with all cases falling under section 2(c)(i) of the Contempt of Courts Act, 1971. In the summary contempt procedure, judges sit as judges in their own cause and the defendant cannot lay claim to all the safeguards provided under the normal procedural law. It is only where the offensive conduct or the offending imputations are made in the face of the court or they relate to particular proceedings which are in progress and give rise to a risk of prejudice to the proceedings on hand that the application of the summary procedure would be justified on the ground of urgency. We, therefore, recommend that the application of section 2(c)(i) should be restricted to such cases only and the Act should be amended accordingly. A new criminal offence should be created to take care of all other cases of contempt falling under section 2(c)(i). The new offence should be constituted by the Publication in whatever form of matter imputing improper or corrupt judicial conduct with the intention of impairing confidence in the administration of justice. It should be triable only on prosecution. As the offence would be one which struck generally at the administration of justice, prosecution should only be at the instance of the Attorney General/Advocate General. As regards defence for the new offence, we agree with the view of the Phillimore Committee in the United Kingdom that if a defendant were to prove the truth of his allegation and also show that its publication was for the public benefit, he should be entitled to an acquittal. In our view, the creation of the new offence with the defence suggested above would go a long way in removing the complaint that the summary procedure adopted for trying contempt cases inhibits honest and truthful criticism of the administration of justice in public interest.
- IV.99 The definition of Criminal Contempt in sub-clauses (ii) and (iii) of section 2(c) has to be amended. At present, every publication which howsoever minutely interferes or tends to interfere with a pending judicial proceeding technically constitutes 'contempt' under these sub-clauses, although it does not become punishable under section 13 unless the interference is substantial. We do not see any reason why a publication should constitute a technical 'contempt' unless it is also punishable under the Act. This could lead to unnecessary harassment of newspapers. We recommend that the definition in sub-clauses (ii) and (iii) of section 2(c) should be tightened by making it clear that it is only a substantial interference that constitutes contempt under the Act. If this change is effected in the definition itself there will be no need to retain section 13 in the Act. The wording of section 3 will also need consequential changes.
- IV.103 Journalists sometimes investigate suspected crimes malpractices and abuses and accumulate evidence. Publication of such material is often in the public interest and also helps in boosting the circulation of the newspaper. The law of contempt does not hinder publication of such accumulated evidence before the accused are arrested and charged. But when once judicial proceedings are set in motion the Press should not publish the evidence. When a person is being tried for an offence, if the Press has evidence that some other person is guilty of the crime, propriety would demand that the evidence in the possession of the Press be placed before the Court. By adopting such a course it will get the credit for its investigative effort though the advantage of increased circulation through publication exclusively in its columns would be lost.
- IV.104—105 Publication of comments on or criticism of public utterances of judges is not contempt because the judge sheds his mantle as a judge when he enters the public arena of debate. The Press, however, must at all times act in a responsible manner. The Press should eschew use of immoderate language, the tendency to give a slant to the copy and sensationalising events with a view to increasing circulation or satisfying the sadistic curiosity of the public.

*(7) Contempt of Legislature*

- IV.110 From the point of view of freedom of the Press it is essential that the privileges of Parliament and State legislatures should be codified as early as possible.
- IV.118 We agree with the observations summarised below of the Select Committee appointed by the House of Commons in 1966 on the law of Parliamentary Practice. The Committee said that the use of the word 'privilege' could convey to the public generally the false impression that members were and desired to be a 'privileged class'. It emphasized the fundamental principle that 'privileges' were not the prerogative of members in their personal capacities but were claimed and enjoyed by the House in its corporate capacity and by its members on behalf of the citizens

IV.118 (contd.)

whom they represented. The Committee favoured the discontinuance of the use of the term 'privilege'. Accordingly the Committee preferred to refer to "the rights and immunities" of Parliament and its members, rather than their "rights and privileges" to "Contempt of the House" rather than to "breach of privilege"; and to speak generally of the "penal jurisdiction of Parliament" rather than the power to punish for "breach of privilege". The Committee said that regard must be had to the importance of preserving freedom of speech in matters of political controversy. According to the Committee, the law of parliamentary privilege was not, except in the clearest case, to be invoked so as to inhibit or discourage the formation and free expression of opinion outside the House by members equally with other citizens in relation to the conduct of the affairs of the nation. It was of the view that the law of parliamentary privileges should not be administered in a way which would fetter or discourage the free expression of opinion or criticism, however prejudiced or exaggerated such opinion or criticism might be. We endorse the following recommendations of the Committee for adoption by our Parliament and State Legislatures :

- (1) The penal jurisdiction of the House should be exercised as sparingly as possible and only when the House is satisfied that to exercise it is essential in order to provide reasonable protection for the House, its members or its officers, from such improper obstruction or attempt at or threat of obstruction as is causing or is likely to cause interference with the performance of their respective functions.
- (2) In the ordinary case where a member has a remedy in courts he should not be permitted to invoke the penal jurisdiction of the House in lieu of or in addition to that remedy.
- (3) The penal jurisdiction should never be exercised in respect of complaints which appear to be of a trivial character or unworthy of the attention of the House. Such complaints should be summarily dismissed without the benefit of investigation by the House or its Committee.
- (4) In general, the power to commit for contempt should not be used as a deterrent against a person exercising a legal right, whether well-founded or not, to bring legal proceedings against a member or an officer.
- (5) It should be open to the House in deciding whether or not a contempt has been committed to take into account an honest and reasonable plea in the truth of the allegations made, provided that they have been made only after all investigations had taken place, had been made in the honest and reasonable belief that it was in the public interest to make them, and had been published in a manner reasonably appropriate to that public interest. If the person against whom the complaint has been made is able to satisfy the House of all these matters, he cannot be said to have improperly obstructed or attempted improperly to obstruct the House and ought accordingly to be acquitted of contempt.
- (6) The following conduct should not of itself be regarded as being capable of constituting a contempt of the House:
  - (i) To publish, in advance of the publication of the relevant papers : (a) how any member in fact voted in a division; (b) the content of any parliamentary question or notice or motion which has in fact been tabled;
  - (ii) To publish the expressed intention of a member to vote in a particular manner (or to abstain from voting) or to table a particular parliamentary question or notice of motion.
- (7) The type of contempt likely to be committed in modern times can often best be dealt with by a fine. Moreover, it is the only penalty which can be imposed upon a limited company or other corporate body.
- (8) The House should enjoy the power to remit, suspend or vary any penalty which it has imposed, upon receiving adequate undertakings from the person found guilty of contempt or for other good cause.

IV.118 (concl'd.) However, Sarvashri P.V. Gadgil, Rajendra Mathur, Girilal Jain, Ishrat Ali Siddiqui and H.K. Paranjape are of the view that a legislature should not have the penal power of a court of law, and that a person can be punished for contempt of a legislature only by a court of law and after the privileges of that legislature have been codified.

IV.121—122 The protection conferred by Article 361-A inserted by the Constitution (44th Amendment) Act, 1978 extends to news agency reports containing material for publication in a newspaper. The Article, however, does not apply to the publication of any report of the proceedings of a secret sitting. The provision in Article 361-A, being a constitutional provision, overrides section 499 of the Indian Penal Code.

Shri P.V. Gadgil holds that Article 361-A is not valid and its enactment is open to challenge on legal grounds. He has elaborated the point in a separate note. He is of the view that this Article should be repealed because it enables newspapers to indulge in character assassination. We do not, however, share this view. The citizen has a right to know what his representative says in the legislature. It should be noted that a publication with malice is not protected under Article 361-A. We think the remedy for the malady pointed out by Shri Gadgil lies in preventing members from making false and reckless allegations on the floor of the House by the stricter enforcement of procedural rules governing proceedings of Parliament and State legislatures.

IV.128 The rules of business of the Houses of Parliament and State legislatures in India dealing with the procedure for taking action against alleged breaches of privilege, etc. should be reviewed for necessary provisions incorporated therein to provide for a reasonable opportunity to alleged contemnors to defend themselves in the proceedings for breach of privilege. While doing so, the principles enunciated by the Supreme Court in *Maneka Gandhi v. Union of India* (1978), particularly those relating to the requirements of natural justice, will have to be kept in view. The rules framed should not violate the fundamental rights. A limitation of one year should be prescribed for taking cognizance of publication of offending material in the newspapers on the ground of breach of privilege. The right of the Press to be present in the legislature, as in the courts, should be recognised.

IV.129—130 About publication of expunged matter we reiterate the view of the First Press Commission that unintentional and unavoidable transgressions of the rulings of the Chair, such as publication of the proceedings of the legislature before the order of the presiding officer expunging those proceedings reached the newspaper offices, should not be regarded as a breach of the privileges of the House. The Press should not publish expunged portions of the proceedings of a legislature. An expunged portion does not form part of the 'proceedings' and its publication is not saved by Article 361-A. A publication of an expunged portion of the proceedings of the house of Commons in U.K. is recognised as a breach of privilege and it should be so in India in view of the latter part of clause (3) of Articles 105 and 194 of the Constitution. However, Dr. H.K. Paranjape is of the view that a newspaper should have the right to publish even those portions which have been expunged, because the citizens of the country have a right to be informed of the activities of their representatives in Parliament and the State legislatures.

(8) *The Press and Registration of Books Act, 1867*

IV.137 The terms 'daily newspaper', 'news magazine' and 'periodical' should be separately defined. A printed or cyclostyled work containing public news or comments on public news which is published every day or at least six days in a week may come within the category of 'daily newspaper'. Any other printed or cyclostyled periodical containing public news or comments on public news may come within the category of 'news magazine'. All printed periodical publications which do not contain public news or comments on public news to any significant extent may come under the term 'periodical'. We recommend enactment of separate sets of provisions for the registration of these three categories of publications in three separate registers to be maintained by the Press Registrar. Classification of a paper as 'daily newspaper' or 'news magazine' or 'periodical' by the Press Registrar should be done after one month from the date of publication in the case of dailies and after the publication of two issues in the case of other periodicals. When this recommendation is carried out, the entries in the existing register of newspapers will have to be transferred to the appropriate registers.

IV.138 The expression "Registrar of Newspapers for India" wherever occurring in the Act should be substituted by the expression "Press Registrar" which we think is more appropriate.

- IV.139 The Act should provide for the appointment of a person with suitable background or experience, and for a tenure of five years as Press Registrar. This will conduce to a professional approach and autonomous functioning.
- IV.141--142 The procedure prescribed for making a declaration in respect of a newspaper under the Act requires revision. We suggest that the onus of getting clearance of the title should be thrown on the printer/publisher. The intending printer/publisher should ascertain from the Press Registrar that the title of the newspaper intended to be published is not the same as or similar to that of any other newspaper and make a solemn affirmation in this behalf through an affidavit. The declaration required to be made under section 5(2) by the printer/publisher could also be made in the form of an affidavit and sent by registered post to the specified Magistrate. We are of the view that there is no need for personal appearance before the Magistrate for this purpose. After sending the declaration and the affidavit regarding title to the Magistrate by registered post, the printer/publisher should be free to commence the publication. Under the scheme of the Act, the requirement of prior authentication for commencing publication has been laid down to enable the Magistrate to ascertain from the Press Registrar whether the proposed title is free. Now, when the intending publisher testifies that the proposed title is free through an affidavit, there will be no reason for insisting on prior authentication for commencing publication. As it is, when once the title is reported to be free, the Magistrate has no discretion in the matter of authentication. We recommend that the District Magistrate should, after authenticating a declaration, send an attested copy to the Press Registrar.
- IV.144 The recommended modification of the procedure for making declarations in respect of newspapers will involve amendment of the following provisions of the Act :
- (i) Proviso to section 6 and sub-section (2c) of section 5 will have to be deleted.
  - (ii) A new sub-section will have to be inserted in section 5 with the provision that the intending printer/publisher should inquire and make sure from the Press Registrar that the proposed title of the newspaper is not the same as or similar to that of any other newspaper published either in the same language or in the same State.
  - (iii) Sub-section (2) of section 5 will have to be modified by deleting words requiring personal appearance before the Magistrate for making the declaration and inserting the provision for making the declaration through an affidavit and sending it to the specified Magistrate by registered post accompanied by another affidavit solemnly affirming that the proposed title of the newspaper to be published is not the same as or similar to that of any other newspaper published either in the same language or in the same State.
  - (iv) The words requiring personal appearance for making the declaration contemplated in section 8 will have to be deleted therefrom and the provision enabling making of the said declaration by an affidavit and sending the same by registered post to the specified Magistrate will have to be inserted in that section.
- IV.145 Sub-section (5) of section 5 which prescribes time limits for commencement of publication, after authentication of the declaration, for newspapers of different periodicities may be amended so as to provide for a uniform time limit of six months in the case of all newspapers irrespective of their periodicity and a discretion in the Magistrate to extend the period for reasons to be recorded in writing. We are recommending the discretion to be vested in the Magistrate in order to take care of situations where there is unavoidable delay in the procurement of machinery, securing power or for other reasons.
- IV.146 We recommend amendment of sub-section (7) of section 5 on the following lines : In the case of a daily newspaper, the declaration should cease to have effect if the publication does not come out (except owing to strike, lock-out, go-slow, powers-hortage or similar cause) for a month; in all other cases, the time limit should be three months from the due date of the next issue, again excepting reasons beyond the publisher's control. The reasons should be recorded.
- IV.147 We recommend deletion of sections 8B(i) and 15(2) which we consider to be too drastic.
- IV.148 Under the existing provisions of section 8B the Magistrate is not bound to record his reasons for cancelling a declaration. We recommend that the wording of the section should be amended so as to ensure that the Magistrate records his reasons for cancellation of the declaration.

- IV.149 The publisher of every newspaper is bound to furnish to the Press Registrar under section 19E read with sections 19D and 19B(2) such returns, statistics and other information as may be required. We found that information such as the number of persons employed, the capital invested, and the capacity of the machinery in use were not available in the records of the Press Registrar. These can be obtained by adding suitable entries in Form I of the Schedule to the Registration of Newspapers (Central) Rules, 1956.
- IV.150 We recommend that, if necessary, the Companies Act and other Acts should be amended to make it obligatory for newspaper companies to maintain techno-economic data including edition-wise and publication-wise financial data in proper form and make it available when required. Similarly, if necessary, Section 19B(2) may be amended by addition of entries relating to techno-economic data in the list of particulars mentioned therein. Supply of techno-economic information by the publishers of newspapers to the Press Registrar not only in respect of individual publication but also in respect of separate editions of the same newspaper brought out from different centres, whether by conventional methods of printing or by facsimile reproduction, should be made obligatory.
- IV.151 The Act should have a provision under which it should be possible for the Press Registrar to obtain regular information about the volume of advertising revenue of newspapers from the advertising agencies operating in the country.
- IV.152 We recommend that the power to impose a fine under Section 19K of the Act for failure to furnish information required by the Press Registrar may be vested in the Press Registrar himself instead of the Magistrate, by a suitable amendment.
- IV.153 A specific provision may be incorporated in the Act providing that whenever a declaration in respect of a newspaper ceases to have effect under any provision of the Act, or becomes void under any provision of the Act, or is cancelled under any provision of the Act, the right to publish under a particular title automatically comes to an end and the title of such a newspaper becomes free. Any intending publisher can file a declaration claiming that title. However, in the case of cessation of publication of a newspaper, its title should not be available to a claimant before the expiry of a period of one year from the date of cessation of its publication.
- IV.156 The provisions of the Act should be uniformly referred as "Sections" and not "rules".
- IV.157 We recommend that section 8C of the Act which provides for the constitution by the Central Government of an Appellate Board to consider appeals against the order of a Magistrate refusing to authenticate a declaration under Section 6 or cancelling a declaration under Section 8B may be amended in view of Section 27 of the Press Council Act, 1978. Consequently Section 27 of the Press Council Act, 1978 may be deleted.
- (9) *Post and Telegraph Acts*
- IV.158-159 Government should continue to have the power of intercepting telegraph messages in a public emergency or in the interest of public safety. Public emergency need not be confined to emergency arising from war or external aggression or armed rebellion justifying the proclamation of an emergency under Article 352 of the Constitution. An emergency may arise in a locality which is likely to have its repercussions in other parts of the country. The power of interception must be vested in the Government to be exercised in appropriate cases in the interest of maintaining and ensuring public safety. In a vast country like India, a power of this nature cannot be exercised solely by Government, i.e. by the responsible Minister concerned. The power will necessarily have to be delegated to local officers. But the delegation of power must be for short periods only and clear instructions should be issued by the Government to the delegated authorities to prevent misuse of the power.
- IV.160 The appropriate Government should declare the existence of the public emergency by a notification warranting the exercise of this power and it is only after the issue of such a notification that the power of withholding telegraphic messages should be exercised by the delegated authority.
- IV.162 Whenever the power is exercised in the interest of public safety, it should, as far as possible, be exercised by the concerned Minister of the appropriate government for one month at a time extendable by Government if the emergency continues. However, in exceptional circumstances the power can be delegated to the District Magistrate.



- IV.163 As soon as an order is passed by the District Magistrate withholding the transmission of a telegraphic message, it should be communicated to the Central or State Government, as the case may be, and also to the sender and the addressee of the telegram. The text of the order should be placed on the table of the respective State legislatures after three months. We recommend that, as suggested by the Press Council of India in its annual report covering 1969, the officer in-charge of a telegraph office should maintain a register giving particulars of the time of receipt, the sender and addressee of every telegram which he refers to the District Magistrate with recommendations of its withholding. Similarly, the District Magistrate should maintain a register of the time of receipt, content and addressee of each such telegram and record his decision thereon, together with the time of the decision. Data of this nature will help courts, if called upon, to determine the presence or absence of *mala fide* in the withholding of telegrams.
- IV.166 We recommend that telephones may not be tapped except in the interest of national security, public order, investigation of crime and similar objectives, under orders made in writing by the Minister concerned or an officer of rank to whom the power in that behalf is delegated. The order should disclose reasons. An order for tapping of telephones should expire after three months from the date of the order. Moreover, within a period of six weeks the order should come up for review before a Board constituted on the lines prescribed in statutes providing for preventive detention. It should be for the Board to decide whether tapping should continue for longer. The decision of the Board should be binding on the Government.
- The Minister or his delegate will be competent to issue a fresh order for tapping of the telephone if circumstances call for it. The Telegraph Act should contain a clause to give effect to this recommendation.
- IV.167—169 We recommend insertion of the words “in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of an offence” in Section 26 of the Post Office Act. The exercise of the power under this section should be subject to the safeguards recommended by us with regard to the exercise of the power under Section 5(2) of the Telegraph Act. Appropriate amendments may be made in the provisions of Section 5(2) of the Telegraph Act and Section 26 of the Post Office Act.
- (10) *Industries (Development and Regulation) Act, 1951*
- IV.170—171 The Act gives the Central Government power to take over industrial undertakings included in the First Schedule of the Act without investigation under certain circumstances. An amendment to the Act in 1979 included a number of additional industries in the First Schedule, among them “printing including litho printing industry”. We recommend an addition after this of the words : “other than printing presses used mainly for printing newspapers”.

## CHAPTER V

## PRESSURES ON THE PRESS

- V.4 We are of the view that public opinion should assert itself to restrain misguided elements among the public from exercising their disagreement with newspaper reports through physical violence against the premises or property of the newspaper or its editor or employees rather than sending a rejoinder for publication or making a complaint to the Press Council or availing of a remedy provided under the law of the land.
- V.6 Political parties and trade union leaders should not for political reasons utilise their following among newspaper employees or hawkers to hinder the publication and/or distribution of any newspaper. We do not refer here to the normal processes of collective bargaining.
- V.14 We are of the view that editorial functioning should be insulated from proprietorial pressure irrespective of whether such pressure is exerted on behalf of private business interests or on behalf of governmental authorities.
- V.15 There have been allegations of governmental inaction during outbreaks of mob violence against newspaper offices and staff, e.g., during the gherao of Bangalore newspapers in September 1980. All such allegations have to be investigated by the Press Council and appropriate action recommended against those found guilty of inaction. Public opinion should assert itself, in the

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- legislatures and through the press, to impress upon all concerned the need for observing the distinction between party and Government and of fulfilling the paramount task of maintaining law and order.
- V.21 Selective invocation of provisions of various laws relating to the Press have been cited by witnesses. Partisan and politically motivated invocation of the provisions of laws by governments of different political complexions hardly promotes respect for the rule of law. Fair and even-handed implementation of laws is essential for the independence of newspapers.
- V.22 The Press should be able to resist not only external pressure but also inducements which would undermine its independence from within. Journalists should be on guard against the temptation to enjoy favours, whether from Government authorities, employers, advertisers or others.

CHAPTER VI

RIGHT TO PRIVACY

- VI.30 The Indian Penal Code (Amendment) Bill, 1978, which incorporated the recommendations of the Law Commission in respect of invasions of privacy and which lapsed with the dissolution of the last Lok Sabha, may be reintroduced in Parliament as early as possible.
- VI.38 Legislation incorporating a general right to privacy may not be advisable.
- VI.41 The Press Council could appropriately be entrusted with the task of taking cognizance of complaints of unfair publication relating to matters concerning privacy. We suggest that in Section 13(2)(c) of the Press Council Act, 1978, the phrase "including respect for privacy" may be added between "public taste" and "and foster".
- VI.42 Sensitive private facts relating to the health, private behaviour, home life or personal or family relationships should not be published except when it is in public interest to do so if the publication of these facts is likely to cause distress, annoyance or embarrassment to the person or persons concerned. Disclosure of remote criminal proceedings should be avoided.
- Appropriation of the name, identity, reputation or likeness of an individual for commercial or political purposes or for advancement of one's career or advancement in public life should be treated as objectionable. The facets of 'public interest' dealt with in the exceptions to section 499 IPC (defamation) should be utilised in deciding whether the publication is in public interest or not.
- A matter may be said to relate to public interest if it belongs to one of the following categories :
- (a) conduct of a public servant in the discharge of his public functions, or his character in-so far as his character appears in that conduct, and no further;
  - (b) conduct of any person touching any public question, or his character insofar as his character appears in that conduct, and no further;
  - (c) any performance which its author has submitted to the judgment of the public, or the character of the author of the performance insofar as his character appears in such performance, and no further;
  - (d) matters arising out of any authority conferred by law or contract on one person to pass, in good faith, any censure on the conduct of another person, in matters to which such lawful authority relates;
  - (e) matters concerning any accusation made against any person to a person who has lawful authority over the person, with respect to the subject-matter of the accusation;
  - (f) matters concerning other matters which have been already dealt with—
    - (i) before a court in judicial proceedings not held *in camera*, or
    - (ii) before Parliament or Legislature in proceedings not held *in camera*, or
    - (iii) before a public body or public servant in any proceedings not held in private;
  - (g) other matters not enumerated above, where it is for the public good that the information (though non-defamatory) may be published. This would include matters whose publication is necessary by way of a reflection on character or caution.

Apart from the plea of public interest, the following may be deemed as valid defence against a complaint of invasion of privacy :

- (i) consent to publication,
- (ii) availability of published matter from public record open to public inspection,
- (iii) innocent publication i.e. publication where the publisher did not know or had no reason to believe that it would cause distress, annoyance or embarrassment to particular individuals,
- (iv) matters published under legal authority to which a claim of privilege, as understood in the law of defamation, applies, and
- (v) publication which is for the protection of the publisher himself.

VI.43 The Law Commission has recommended legislation intended to make a beginning with those invasions which amount to eaves-dropping and unauthorised publication of photographs. We endorse its recommendation that the Indian Penal Code be amended to include "offence against privacy".

VI.44 We are of the view that the Press should not be unduly inhibited in performing its important function of giving news in the public interest as distinct from news that may pander to prurient or morbid curiosity. But a correct balance has to be struck between the citizen's claim to privacy and the public's right to information.

## VII. FREEDOM AND RESPONSIBILITY : ROLE OF THE PRESS COUNCIL

VII.18 The Press Council has functioned for 15 years. Within the limits set by the legislation it has done useful work and we recommend that the institution should continue.

VII.23 & 25 The Press Council has suggested to the Government that the 1978 Act be amended to empower it to recommend to the Central or State Governments, public sector undertakings, etc. stoppage of issue of advertisements, or disallowing any provision for growth in circulation in the matter of allocation of newsprint or suspension of concessional rates of postage, for a specified period, in the case of newspapers which are censured thrice. In the case of journalists and editors who are held by the Council thrice to have violated the accepted principles of journalistic ethics, the Council desires to have the power to deny facilities of accreditation for a specified period. The Council has urged that it should be made obligatory on the part of the concerned authorities to carry out its directions in this behalf. We recommend that the Press Council be given the powers sought by it with the modification that a newspaper would invite sanction if it comes to the adverse notice of the Council thrice, whether by way of disapproval, warning, admonition or censure. Once these powers are given, it becomes essential to expressly provide in the Act that the Chairman of the Press Council should have a judicial background and should preferably be a retired judge of the Supreme Court. Sarvashri Girilal Jain, S. K. Mukherjee and H. K. Paranjape do not agree that the Press Council should be given penal powers.

VII.26 We are of the view that Section 15(4) of the Press Council Act, 1978, which empowers the Press Council to "make such observations, as it may think fit, in any of its decisions or reports, respecting the conduct of any authority including Government" is adequate. We recommend that such observations should, as early as possible, be placed before both Houses of Parliament or the State Legislature as the case may be.

VII.32 We are of the view that it would not be desirable to draw up a code of ethics for newspapers. Such a code could be built up case by case over a period of time.

VII.35 The Press Council has suggested that it should be consulted on all proposed legislation concerning the Press. We endorse this suggestion.

VII.36 We recommend that the Research Section of the Council should be strengthened so that it can take up further studies on problems relating to the Press on a continuing basis.

VII.38 We are of the view that the Press Council's approach to complaints involving allegations of foreign money in the Indian Press..... should not be technical but substantive.

- VII.39** In order to curb the influence of foreign money on the Press, we recommend the following five steps and the enactment of any necessary changes in laws for the purpose :
- (i) There should be a specific legal provision under which no newspaper undertaking should have any foreign ownership either in the form of shares or in the form of loans.
  - (ii) Advertisement as well as printing contracts from foreign sources should be on terms no different from those applicable to similar work done for others.
  - (iii) Advertisement rates must be published each year, and on every revision, and there should be no discrimination in their application to foreign advertisers.
  - (iv) Once a year every newspaper should publish its profit and loss account, with separate information about foreign and Indian sources.
  - (v) Every newspaper undertaking must submit with its annual account the following information to the Press Council :
    - (a) Details of revenue obtained from advertisements and printing contracts in respect of foreign sources country-wise, including advertisements or printing contracts received through an Indian agency; and
    - (b) names of the top 100 shareholders with their nationality and address and the number and proportion of shares held.
- VII.41 & 42** The subject of training in journalism has not been included among the functions of the Press Council listed in the Press Council Act 1978. We consider it desirable that the 1978 Act be amended so as to entrust the Press Council with the function of keeping under continuous review the adequacy and quality of journalism training facilities in the country, particularly in Indian languages, and suggesting improvements.
- VII.44** We recommend that the Press Council should enter into arrangements with selected University departments of journalism, Indian Institute of Mass Communication, Press Institute of India and any other suitable organisations that can be relied on to take up the work of monitoring the performance of newspapers in respect of important issues from time to time in a given language or languages. We recommend that adequate funds should be made available to the Press Council to organise the monitoring of Press performance.
- VII.48** It is desirable for the Press Council to secure information each year on the membership, finances and activities of the various associations that are notified for invitation to forward panels of names for the constitution of the Press Council.
- VII.49** We recommend a suitable amendment in the Press Council Act so as to provide for the retirement of members by rotation in the interest of continuity.
- VII.53** We welcome the efforts being made by the Press Council to become financially self-reliant. The Press Council's resources will be further augmented if the Government acts on the recommendations we make, in the Chapter on "Official Agencies and the Press", for the levy of a cess on newsprint consumption and a tax on newspaper advertisements, the yield from both to be earmarked in appropriate proportions for the Press Council and for the proposed Newspaper Development Commission.

## CHAPTER VIII

## OFFICIAL AGENCIES AND THE PRESS

- (i) *Press Registrar*
- VIII.4** In cases where claims of circulation certified by Chartered Accountants are found to be inflated, the Press Registrar should systematically apprise the Institute of Chartered Accountants of the situation. Disciplinary action should be taken, where it is justified, against Chartered Accountants who give false certificates of newspaper circulation.
- VIII.5** The Press Registrar should pay greater attention to verification of the regularity of publication of newspapers. A newspaper which does not come out regularly cannot be regarded as a genuine newspaper.

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- VIII.7 It will be useful to set up an Advisory Committee of experts to assist the Press Registrar in the discharge of his non-statutory functions.
- VIII.9 It is necessary to weed out from the Press Registrar's register non-existent publications and publications which are not brought out in conformity with the Press and Registration of Books Act. It is also necessary to obviate complaints of delay in disposing of inquiries relating to clearance of titles from intending printers/publishers and in issuing certificates of registration. There is need therefore to strengthen the organisation of the Press Registrar. We recommend the sanction of an adequate number of regional officers who should be conversant with the languages of the region to which they are posted.
- VIII.10 The Annual Reports of the Press Registrar should contain data on some important aspects of the Press, for example the average page level of individual publications. He should keep himself informed of all significant developments in the field of newspaper publication including developments in printing technology. It will be useful for him to have a statistical and economic cell. He should also have information on the profile of readership of newspapers. The Press Registrar should take steps to speed up the printing of his annual reports.
- (iii) *Communications*
- VIII.17 Transmission of Press telegrams should be given the highest possible priority.
- VIII.20 The Government should sympathetically consider the demand for lowering the postal tariff for newspapers.
- VIII.22 For change in the posting date, the power to waive the condition of three days' notice should be delegated further down to as lower a level—Post Masters or Sub-Post Masters—as possible.
- VIII.24 The Railway authorities should take special steps to see that the departmental instructions giving the highest priority to transportation of newspapers are observed.
- VIII.25 A few contractors have a monopoly in vending newspapers at railway stations. We are of the view that as far as possible, this monopoly should be broken and competition encouraged. There should be at least two competing book-stalls at big railway stations.
- (iv) *Accreditation of correspondents*
- VIII.34 Representation of all recognised organisations on the Accreditation Committee should be on a uniform scale. There is also need to review the representative character of different organisations from time to time so that the Committee enjoys the confidence of the profession. This review can appropriately be done by the Press Council.
- VIII.38—39 Accreditation should be retained as a facilitating measure; it should not mean that the door is not open to genuine journalists other than accredited correspondents. We are of the view that the editor of a paper should get accreditation if he seeks it. Accreditation in the case of editors should ordinarily be limited to dailies and news agencies.
- VIII.41 In Delhi as well as in State and Union Territory headquarters, Information Department offices are generally located in secretariat buildings, entry to which is regulated. There is need for free access to such offices.
- (v) *Housing and travel facilities for Journalists*
- VIII.49 We recommend that no further housing facility should be provided to journalists and that the existing allotments of government accommodation in the national capital and the States should be charged for at non-subsidised rates and phased out as the present occupants leave. S/Shri K. R. Ganesh and Girilal Jain do not agree with this recommendation.
- (vi) *Newspaper finance: loans and development assistance*
- VIII.61 We are of the view that there is no justification for excluding newspaper establishments from assistance for acquiring printing machinery through the National Small Industries Corporation.
- VIII.64 Indian and Eastern Newspapers Society (IENS) pointed out that because of the long credit period (generally of 75 days) that is available for advertisements released through the accredited advertising agencies, the working capital requirements of newspapers are larger than those of most

other industries. IENS wanted the large margin requirements on this type of cash credit from the banks to be reduced substantially. It also wanted the Bill Market Scheme of the Reserve Bank of India to be made applicable in the case of the sale of advertisement space by newspapers. IENS wanted commercial banks to give working capital to the industry against the large inventory of raw materials maintained by it. We recommend that these suggestions may be considered with sympathy.

- VIII.65 Those small and medium newspapers which come within the definition of small scale industry should be treated as such and enabled to get loans at the rate of interest applicable to small scale units.
- VIII.73 In the prevailing atmosphere of animosity between political parties and the tendency to exercise executive discretion for the advantage of the party for the time being in power, a system of direct financial subsidy to individual newspapers would be liable to be misused.
- VIII.74 We see no need for a separate financial corporation for small and medium newspapers. There should be a priority status to small and medium newspaper undertakings for credit from the nationalised banks, State Finance Corporations and institutions for the promotion of small-scale industries, subject to the conditions as regards creditworthiness, security, etc.

*Newspaper Development Commission*

- VIII.75 to 79 There is need for a body which will promote the development of the Press as a whole, as distinct from individual newspapers. The promotional effort we envisage will be in directions which will facilitate the growth in particular of Indian-language newspapers of whatever circulation category, and of local interest and other publications of small and medium size in terms of circulations. We recommend the establishment, for the purpose, of a Newspaper Development Commission which will offer its assistance on a generalised, non-discriminatory and non-discretionary basis. The objects which we envisage for the Commission are :
- (i) To promote R & D in the newspaper industry, particularly research in and development of teleprinters in Indian languages and of composing and printing technologies suitable for small and medium newspapers;
  - (ii) To promote the development of Indian language news agencies and to oversee the financial health of news agencies in respect of their domestic operations and the rates of subscription available to them from newspapers and Government subscribers such as AIR & Doordarshan;
  - (iii) To provide development assistance to the Press, especially to small and medium newspapers, through such means as the provision of subsidised teleprinter services on a non-discriminatory basis;
  - (iv) To arrange supply of newsprint to newspapers, other than those belonging to newspaper chains, in interior or remote areas at prices comparable to those prevailing at port-towns;
  - (v) To assist the emergence and growth of daily newspapers in remote and interior areas by subsidising the extension of the news agencies' teleprinter links;
  - (vi) To assist in obtaining for newspapers and news agencies reasonable tariffs for internal and external communication;
  - (vii) To appraise proposals for the publication of daily newspapers by the Government in areas without a daily Press, and, if the Commission approves the proposal, to advise on the kind of newspaper that should be brought out;
  - (viii) To liaise with various Government Departments concerned with the needs of the newspaper industry;
  - (ix) To promote and coordinate training in journalism (including of 'katibs' for Urdu papers) in case the Press Council does not assume this function as recommended by us in Chapter VII;
  - (x) To provide financial assistance through grants to institutions engaged in R&D in newspaper publishing;

- (xi) To commission studies relevant to the promotion of the above objects; and
- (xii) To undertake such other functions as the Commission considers to be appropriate in pursuance of the above objectives.

Dr. H. K. Paranjape is not in favour of item (xii).

#### *Composition*

- (1) The Commission should be headed by a full-time Chairman. He should be a person with experience of finance, industry, development administration or newspaper management and generally well versed in public life but not connected with any newspaper undertaking at the time of appointment.
- (2) Two whole-time members (Managing Directors): one of them should be an expert in economics, finance and accounts; and the other an expert in journalism in particular and mass communication in general.
- (3) Three representatives from newspaper organisations like IENS, ILNA and AISMNA.
- (4) Three representatives of Working Journalists, provided that at least two of them shall be persons with wide professional background in Indian language journalism.
- (5) Chairman of the Press Council or his nominee.
- (6) Chairman of the Indian Institute of Mass Communication Society or his nominee.
- (7) One representative each from the Ministries of Information & Broadcasting, Finance and Industry.

Membership of the Commission should be rotational, with one-third of the Members retiring every year or every two years.

#### *Funding.*

In addition to an initial grant by the Government, the Commission should be funded through a small cess on all newsprint consumption by newspapers (including newspapers whose average page level is 12 pages or less); and a tax on the advertisement revenue of newspapers with suitable exemption limit. For earmarking income from a tax on advertisement revenue for the Commission, an amendment of the Constitution will be needed. Sub-clause (f) of Clause (1) of Article 269 (namely, "tax on the sale or purchase of newspapers and on advertisements published therein") will have to be deleted and suitable amendment made to ensure that the advertisement revenue is given to the Newspaper Development Commission. By this the States will not lose anything that they presently enjoy, since this taxation power has not been exercised by the Government of India over the last three decades.

The Newspaper Development Commission may set up Advisory Councils for each language. There can be more than one body for languages like Hindi, English and Urdu which are multi-State languages. The Advisory Councils should consist of journalists and persons eminent in the literary and cultural fields.

The Advisory Councils set up by the Newspaper Development Commission could be consulted by financial institutions on the quality of a newspaper seeking credit.

VIII.84—85

The whole purpose of allotting land to newspaper undertakings at concessional rates would be defeated if the income derived from land and buildings built on them is not utilised for development of the newspaper or newspapers concerned. The Central Government in the Union Territories and the State Governments should go into this matter and take appropriate action wherever it is found that the lease agreements have been violated. Dr. Paranjape is of the view that the Press Commission need not concern itself with punishment for violation of the terms of agreements, which is a normal duty of the authorities.

VIII.86

In view of the possibility of discrimination in the allotment of Government land directly to newspapers at concessional rates, we recommend that in future all such allotments should be done through the Newspaper Development Commission, which should also monitor their utilisation for approved purposes.



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(viii) <i>Advertising from public funds</i>	
VIII.109—110	We broadly agree that advertisements should be considered as a means of communication and should be directed to newspapers according to the audience intended to be reached. We are of the view that advertisement should not be used as a means of financial support, especially in the context of our recommendation for setting up a Newspaper Development Commission.
VIII.111	Both the Central and State Governments should announce their advertising policy each year and adhere to it. Copies of the advertising policy should be placed on the Table of Parliament and the State Legislatures.
VIII.112—115 & 116	We recommend that DAVP be split and its function of handling Government advertisements entrusted to an autonomous corporation in the public sector. There should be similar autonomous bodies in the States. There should be no secrecy about the rates offered to different newspapers and the value of the advertisements placed with them. We recommend that the Central and the State Governments should lay on the Table of Parliament/State Legislatures each year a list of newspapers in which their advertisements, as well as those of public sector undertakings and other public bodies under them, were placed and the value of advertisements placed in each paper along with its circulation figure.
VIII.118	Rates for Government advertisements should be fixed on a realistic and fair basis.
VIII.119	Before the proposed autonomous corporation to handle Government advertisements comes into being, there should be an expert committee to advise DAVP on advertisement rates.
VIII.120	Public sector undertakings should not be able to take advantage of the DAVP rates for Government advertisements which are lower than the Commercial rates of newspapers in a number of cases.
VIII.122	Only such daily newspapers which subscribe to a wire service or have some other properly organised news service should be entitled to receive Government advertisements and those of public sector undertakings. The papers should also have a regularity of at least 90 per cent.
VIII.123	A democratic Government cannot lay down arbitrary or capricious standards in the matter of selection of newspapers for issue of its advertisements. The object sought to be achieved through the advertisement should be the main guiding principle in the matter of selection of the media.
VIII.124—125	We are of the view that the grounds for denial of advertisements to newspapers should have a reasonable nexus with the interests sought to be protected under Article 19(2) or the provisions of any law, e.g., the Penal Code or violation of the unwritten code of journalistic ethics. We do not think it is necessary to provide for an appellate body to consider complaints regarding denial of Government advertisements by an autonomous corporation. An aggrieved newspaper can always approach the Press Council or a court. We are also of the view that municipalities and other elected local bodies should be left free to make their own arrangements for issue of advertisements. Dr. Paranjape is, however, of the view that there is need for an appellate body to go in disputes between Government advertisers and newspapers as court proceedings can be time consuming and wasteful. Such a body, he thinks, can be set up either by the Press Council or the proposed Newspaper Development Commission.
VIII.128—129	In the context of the need to conserve imported newsprint, it is important that those who apply public funds to advertising should observe the greatest restraint and limit it to essential announcements. While it is perfectly legitimate for a Government to publicise its achievements in such fields as agriculture or health or industries, it should be possible to do so through the news columns of newspapers. Paid advertisements tend to ascribe all the credit for such achievements to the political personalities for the time being in power.
VIII.130	The findings of recent research highlight the importance of the rural audience and the growing rural market. This does not appear to have been sufficiently realised by advertisers and advertising agencies, whether in the public sector or the private.
(ix) <i>News services provided by the Government</i>	
VIII.139	In order to improve the utilisation of the slow-speed bulletins, the languages in which the bulletins are broadcast and their timing and frequency need to be examined, in respect of each region and in relation to the constraints on total broadcasting time. Moreover, it should be ensured that the bulletins do not sound merely like government news and publicity.

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- VIII.145 It is better for a newspaper to receive all of a news agency's copy (free of cost if the Government is willing to pay for the service, or at a concessional rate subsidised by the Government) and make its own selection of news items, rather than for an official to make the selection on behalf of newspapers.
- (x) *Publications and Press Relations*
- VIII.154-155 We would urge all departments of the Central and State Governments which bring out periodicals to review the essentiality of the journals from time to time and to continue only those which are essential and preferably also command reasonable sale among the general public. Government periodicals are funded by public money. They should avoid giving the impression of being mouth-pieces of the party and the persons who are in power for the time being. Another reason for the limited reach of Government periodicals is the inadequate sales organisation for Government publications. This needs strengthening.
- VIII.162 We are of the view that the Government should not take over newspapers even if they are faced with closure because of financial or other difficulties, although there may be no constitutional bar to such take-over.
- VIII.167 to 169 We are in favour of daily newspapers being left in the private sector. However, in certain circumstances like those in Andaman and Nicobar Islands, where there is no daily Press, the proposed Newspaper Development Commission should be consulted and its approval obtained for a proposed Government daily newspaper as well as the pattern of its contents. If the circulation of a Government daily crosses the limit prescribed for the purpose, it should be brought within the purview of the Trust formula proposed in Chapter X. Shri K. R. Ganesh, however, does not share the view that the publication of daily newspapers by Government should be limited to exceptional places and circumstances. In his view, the totality of the need of communication in a country where the masses of the people to be informed, educated and mobilised for participation in the process of development, is so large that the medium of the daily Press cannot be left entirely to the private sector. The Government should be free to start daily newspapers in such languages and at such centres as may be found necessary to provide a supplement and/or corrective to the daily newspapers brought out by private publishers.
- VIII.175 In the Press releases issued by the Central and State Governments, one-sided presentation of achievements alone, ignoring the problems and failures that the Press and the public are aware of, does not make for credibility.
- VIII.176 There should be thorough reorganisation of the Press Information Bureau. It should be a news service functioning day and night, with its activities streamlined in such a way that district newspapers and the Indian language Press get its news releases promptly. To ensure that PIB is responsive to the needs of those sections of the Press which need its services most, we recommend the formation of an Advisory Committee comprising the users of PIB services.
- VIII.178 The Principal Information Officer and other functionaries in the Press Information Bureau should be fully involved in the decision-making discussions in various ministries so that they can explain the decisions to the Press and public in an effective manner.
- VIII.179 We welcome the guidelines issued by the Ministry of Information and Broadcasting to its Media Units during July 1980 stressing the importance of the official media remaining "credible as well as interesting to all sections of the society" and on news and views being disseminated in a fair, objective and balanced manner giving contrasting points of view and problems and issues being "covered from the public point of view without any hesitation in bringing out healthy criticism".
- (xi) *Information Administration*
- VIII.180 The Commission considers it desirable that the editorial staff of a newspaper should be insulated from undue or improper interference by the proprietors in their day-to-day work so long as they function within the parameters of the newspaper's policy. The same criteria should apply to journalism in the public sector.
- VIII.182 Direct recruitment at senior levels too is desirable in a professional service like the Central Information Service.

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VIII.187	Journalistic aptitude and experience should be required or tested for direct recruitment at every level of the Central Information Service. Proficiency in Indian languages should also be ascertained before recruitment.
VIII.189	The Information set-up in the States should be headed by professionals and regular cadres constituted.
VIII.190-191	Professional autonomy is essential in the public sector of journalism as in the private. To permit this, it is essential that Ministers and senior civil servants should exercise self-restraint, intervening only to give policy guidelines and to correct any deviations therefrom. Information official should realise that professional autonomy is something to be exercised by them.
VIII.194	On the lines of the Railway Ministry, there should be an information Board comprising senior professional heads of the media units to tender policy advice to the Minister. With the secretariat of the Ministry attending only to financial and administrative matters, not policy planning.
VIII.195-196	The Press Information Bureau, Publications Division and other units in the Information Wing of the Ministry should be headed by persons of acknowledged professional status drawn from newspapers and news agencies or the fields of advertising and public relations. The appointment of Principal Information Officer should be on a contract basis, terminable when there is a change of Government.
VIII.197	The Information officials in the Press Information Bureau or editors and business managers in the Publications Division can retain and improve their professional skills only if there is opportunity for movement in and out of the private and public sectors of newspapers and book publishing. We, therefore recommend that newspapers should let the Press Information Bureau have the services of their Assistant Editors/Special Correspondents on loan for a period of three to four years, and take suitable persons from the Central Information Service to work in the newspapers for similar periods, in the field as correspondents or at the desk as chief sub-editors/news editors.
VIII.198	The scales of remuneration in the Central Information Service should be improved and brought to a level comparable to those which now obtain in newspapers of repute.
<b>CHAPTER IX. THE PRESS AS AN INDUSTRY</b>	
IX.87	The Central and State Governments as well as private advertisers and advertising agencies should make efforts to reach the rural audience more extensively, depending upon the nature of the product or the service advertised.
IX.88	The Press Registrar should collect information on the ownership structure of advertising agencies and their performance including the value of advertising handled on behalf of different clients and release of advertisements to different newspapers.
IX.90	Self-laudatory statements and photographs, whether put out by governments or by enterprises in the private and public sector or by other institutions, serve neither the advertisers' interest nor the public interest.
IX.91	Any paid information published in a newspaper should be clearly identified as such. The Press Council should go into cases where newspapers do not observe this principle.
IX.98	While the MRTP Commission should look after the question of unfair trade practices, it is for the Press Council to oversee the observance of the ethics of advertising by the Press.
139	Cinema and sex magazines should not be allotted newsprint. The Press Registrar should determine whether a publication is a sex magazine or not. S/Shri Girilal Jain, Rajendra Mathur, H. K. Paranjape and S. K. Mukherjee have reservations about the recommendation.
IX.140 to 142	New publications are at present allowed an initial quota of newsprint for the first four months of their publications on the basis of their average circulation up to a maximum of 10,000 copies of eight standard pages in the case of dailies and 16 standard pages in the case of periodicals. We would like this system of allocation of newsprint to new newspapers to continue. However, if a new newspaper wants to start with a circulation higher than 10,000 copies, it should be

- permitted to do so provided the newspaper is in a position to furnish satisfactory evidence of its capacity in this behalf to the Press Registrar. Dr. H. K. Paranjape does not approve of the present system of newsprint import and allocation.
- IX.143 There should be some mechanism to weed out spurious publications which do not come out regularly. We are of the view that for the purpose of allocation of newsprint, the requirement of regularity should be increased from the present 50 to 90 per cent in the case of dailies and two-thirds in the case of weeklies and other periodicals. However, allowance should be made for failure to publish on account of strikes/lock-outs, prolonged power cuts or other circumstances beyond the control of the publisher.
- IX.154—157 Cutting down newsprint imports would not be proper as it is not a large drain on foreign exchange resources—an estimated 1.3 per cent of the value of total imports in 1980-81. We recommend that as far as possible a liberal allocation of foreign exchange should be made for newsprint imports to meet the demand of a readership that is growing steadily on account of the increase in population, literacy and purchasing power. Some ways have to be devised to discourage the use of newsprint for publication of image building and other wasteful advertisements. Classified advertisements relating to employment, matrimony, housing and the like serve a useful function, but a considerable part of display advertising is prodigal and has to be curtailed. Keeping the above considerations in mind, we recommend that newspapers should be allowed newsprint free of import/excise duty up to the level of 12 pages. Above that level, as long as the newsprint availability position continues to be difficult, there should be a progressively increasing rate of duty so that the tendency to increase the number of pages to accommodate more and more advertisements with a view to earning higher profits is rendered uneconomical. Government should work out the rates of import duty above the page level of 12 pages from time to time in accordance with the prevailing circumstances. S/Shri Girilal Jain, Rejendra Mathur, S. K. Mukherjea and H. K. Paranjape do not agree with this recommendation.
- IX.166—167 In view of the dissatisfaction expressed by newspapers of all categories with STC's role, we recommend that newspapers of all circulation categories should come together to form a co-operative to handle newsprint imports. Alternatively, while STC continues to negotiate with foreign suppliers on the prices and quantities to be purchased, newspapers may be allowed to make arrangements for shipping the newsprint. The proposed Newspaper Development Commission should subsidise small and medium newspapers for any escalation of shipping and handling charges under such an arrangement. If a small paper wants to use the agency of a big paper for the import of newsprint, it should be allowed to do so.
- IX.172 There should be a differential in wastage margin for newsprint supplied to newspapers based on the distance of the newspaper press from port towns and newsprint factories.
- IX.173 Standardisation of printing machinery and newsprint may help in reducing wastage. We would like the Indian Standards Institution to consider laying down standards for printing machinery and newsprint.
- IX.194 While updating the teleprinter technology, the needs of various Indian languages should be kept in mind. Government should pay particular attention to this aspect as there is generally a resistance in bureaucratic circles to technological innovations.
- IX.201 Litho printing machines are the only viable proposition for small and medium category Urdu newspapers, who cannot afford to acquire offset machines. But litho machines are not manufactured anywhere in the world now and the facilities for keep of the existing machines are not adequate. We recommend that the Government should take measures to meet the requirements of Urdu newspapers.
- IX.202 Government should take steps to provide facilities to train Katibs.
- IX.209 It is for each newspaper to decide which technology would suit its requirements best. In certain circumstances, the latest technology may be the most appropriate technology. Newspapers, particularly those which want to grow, should have an open mind and a progressive outlook while selecting the proper technology.
- IX.224 The proposed Newspaper Development Commission should pay special attention to the development of printing and other technologies suitable for the Indian Press, especially Indian language and small and medium newspapers. While importing technology from abroad, an attempt should be made to get only the latest and the best.

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- IX.225 The new electronic technology appears to have a clear advantage so far as composition in Indian scripts is concerned. With photo composition, matter can be composed and printed in Indian scripts without tampering with their aesthetics and integrity. But while adopting it, its physical requirements like temperature control and assured power supply etc. and the possible impact on employment opportunities should be kept in mind and provided for.
- IX.227 To meet the requirements of small and medium newspapers, Government should sympathetically consider the import of rebuilt or reconditioned flat-bed and other machines which are available abroad at a price much lower than that of the indigenously manufactured machines. This may be subject to a suitable limit as regards the price. The Newspaper Development Commission, which we are proposing, should go into the question of import of reconditioned printing machines in detail.
- IX.244 The proposed Newspaper Development Commission should help in providing common distribution arrangements for newspapers, especially those published in hilly and remote areas, which find it difficult to distribute their copies.

CHAPTER X. THE PRESS AS A PUBLIC UTILITY

1. Ownership Patterns

- X.4 At present separate statistics on the circulation of daily newspapers owned by different categories of owners are not being compiled by the Press Registrar; they are combined with the circulation of publications of various other periodicities. Hence forth, he should present circulation figures separately in respect of daily newspapers, news magazines and periodicals under different categories of ownership.
- X.8 The requirement of publication of particulars of ownership annually under Section 20 A of the Press and Registration of Books Act needs to be modified to require every newspaper to give the names of the top 100 shareholders as well as the nationality, extent of shareholding and the main occupation of each such person. The names of the persons constituting the board of directors along with other directorships held by them should also be printed. This will enable readers to know the identity of persons controlling a newspaper.
- X.12 & 13 On the basis of the data given in the Indian Institute of Public Administration study on *Ownership and Control Structure of the Indian Press*, rejoinders received from newspaper undertakings, and information obtained from the Department of Company Affairs of the Ministry of Law, Justice and Company Affairs and Registrars of Companies, we have put the top 54 dailies (multiple editions of a daily newspaper published from different centres taken as one newspaper) listed in *the Press in India 1980* in the following categories :

Category	No.	Circulation	Per cent of the total circulation
1. Newspapers owned or controlled by companies or undertakings or businessmen with interests in other businesses or industries	27	54,05,711	40.87
2. Newspapers owned or controlled by companies or families or individuals or groups of individuals with primary interest in newspaper business	20	24,86,969	18.80
3. Newspapers owned or controlled by individuals or groups of individuals representing a variety of interests	1	3,08,833	2.33
4. Newspapers owned or controlled by Trusts or educational organisations with primary interest in newspaper business	1	1,56,689	1.18
5. Newspapers owned or controlled by Trusts or educational, cultural or religious organisations as a means to achieve their wider objectives	5	3,33,515	2.52
Total :	54	86,91,717	65.70

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X.12 & 13(contd.) In deciding whether a newspaper is owned or controlled by companies or undertakings or businessmen with interests in other businesses or industries, we have taken into account the extent of ownership or the extent of control held by them and we have put in this category those newspapers in which 50 per cent or more of the ownership rights or control is held by companies or undertakings or businessmen with interests in other businesses or industries. While determining the extent of control, we have relied on *prima facie* evidence; for, we could not undertake a detailed study of the working of every newspaper undertaking in the country. Thus, if a newspaper company has five directors of whom three have directorships of other companies engaged in other businesses, we have put it in category (I) mentioned above.

X.14 & 15 We did not make an extensive study of the ownership patterns and linkages of periodicals because many of them deal with matters other than news and current affairs and the ownership linkages are not as crucial in their case as in the case of daily newspapers. Twenty three of the top 50 periodicals, which are either owned by publishers of the top 54 dailies or about which we could get information from the IIPA study or other sources, fall in two categories :

Category	No.	Circulation	Per cent of total circulation of periodicals
(i) Periodicals owned or controlled by companies or undertakings or businessmen with interests in other businesses or industries	13	23,56,149	7.09
(ii) Periodicals owned or controlled by companies or families or individuals or groups of individuals with primary interest in newspaper business	10	17,32,718	5.22
Total :	23	40,88,867	12.31

X.16 It appears to us that a very significant part of the Press in the country in general, and a major portion of the all important daily Press in particular, is controlled by persons having strong links with other businesses or industries.

4. MRTP Act and the Press

X.31 There is no justification for exempting the newspaper industry from the provisions of the MRTP Act.

X.32 For determining 'dominance' or 'monopoly', the effective market of a newspaper should be considered; it may be the whole of India in the case of some newspapers and periodicals, and a State or a region in the case of others. As recommended by the Sachar Committee, the existing criterion of one-third should be reduced to one fourth share of the market for determining dominance. It should be left to the MRTP Commission to decide the matter in accordance with the facts of each case. We are of the view that no case relating to a newspaper should be decided under the MRTP Act without a public enquiry by the MRTP Commission. This would ensure that different aspects of the question of a situation of monopoly and concentration receive fair attention by an independent quasi-judicial body. The MRTP Commission should have the authority to act *suo moto* if allegations of monopolistic practices of a newspaper undertaking come to its notice.

5. Delinking and Diffusion of Ownership and Control

X.34 Freedom of the Press is not merely a professional right that inheres in journalists. It is essentially the reader's right to know. As William Ernest Hocking put it, in *Freedom of the Press* (1947), "The phrase 'freedom of the Press' must now cover two sets of rights and not one only. With the rights of editors and publishers to express themselves there must be associated a right of the public to be served with a substantial and honest basis of fact for its judgements of public affairs. Of these two, it is the latter which today tends to take precedence in importance; in Robert Leigh's pertinent phrase, freedom of the Press 'has changed its point of focus from

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- X.34 (contd.) the editor to the citizen". The Press is a public utility discharging the basic social function of informing, educating and entertaining the public. For the public interest in this vital area to be properly served, the presentation of news and views in the Press should be fair, accurate, objective, balanced and truthful.
- X.36 In our view, the underlying principle that governs, or should govern, the Press is that the gathering and selling of news and views is essentially a public trust. It is based upon a tacit contract with the public that the news shall be true to the best of the knowledge and belief of those who offer it for sale, and that their comment upon it shall be sincere according to their lights. The same kind of trust is implied in the relationship between a doctor and his patients, though medical men work under the discipline of a professional code and are obliged to hold medical degrees, whereas journalism is a 'free' profession subject only to the external restrictions which the law of the land may place upon it. But the dishonest doctor can harm, at worst, only a few dozen, or a few score patients, while a dishonest journalist may poison the minds of hundreds of thousands or millions of his fellow men. A journalist who sells, or is a party to selling, news that he knows to be false or only partly true, or who trims opinions so as to make them palatable, is more guilty than a tradesman who gives short weight or a manufacturer who offers adulterated goods. The spreading of false statements is more harmful than the sale of material wares under false pretences. The journalist who betrays his trust is more blameworthy than a dishonest tradesman. Journalism, as the basis of the 'newspaper industry' holds a special position because its raw material is really the public mind and it trades chiefly in moral values. In a sense the trusteeship or moral responsibility of the Press is akin to that of ministers of religion, statesmen and leaders of public thought. In another sense it is subject to industrial and mercantile conditions that do not affect these other trustees in the same degree.
- X.37 When newspapers are controlled by other big businesses they become vehicles of expression of the ideology of their owners and the selection, presentation and display of news in such newspapers would be dictated by that ideology. The newspaper industry in their hands becomes involuntarily the cultural arm of other businesses and industries and takes a vested interest in maintaining the existing socio-economic system. The newspapers controlled by them may be selective in their presentation of news and views in return for benefits conferred in respect of their other business interests. . . . Odd exceptions apart, commercial newspapers do not normally find a word to say in sympathy with the legitimate demands of the working class. They become naturally antagonistic to the implementation of certain key Directive Principles contained in Part IV of the Constitution. Legislative measures intended to ensure that the ownership and control of the material resources of the community are so distributed as best to subserve the common good, or, that the operation of the economic system does not result in concentration of wealth and means of production to the common detriment (Article 39 of the Constitution) run counter to their business and other economic interests. If all major newspapers come to represent a similar if not the same view-point as is not unlikely when all of them belong to large private business enterprises a view-point which is against the interests of big business may not receive a fair deal in their columns. . . . It is enough for our purpose to say that legislative measures needed for achieving the goals of our State run counter to the vested interests of the owners of those big newspapers who have large interests in other businesses.
- X.39 It is precisely because the businessmen owning or controlling big newspapers have not acted on the advice of the First Press Commission of creating trusts for their management that we are obliged to seriously consider the question once again and seek other remedies.
- X.46 Today the Press is a big centre of power. No wonder Kipling wrote :
- "Remember the battle and stand aside  
While Thrones and Powers confess  
That King over all the children of pride  
Is the Press—the Press—the Press",
- The power associated with control of means of production in the past has now been, to a great extent, transferred to those who control the mass media as it can no longer be sustained otherwise. Those who control the means of production try to control the media not only for profit but much more so for perpetuation of power associated with their possession of means of production. . . . No one ought to exercise power in a democratic polity without responsibility.



When a person's private interest conflicts with his duty to the public, there is every justification in a democracy for insisting that the exercise of power connected with his public duty be segregated from his private interest.

- X. 47 As we have stated elsewhere in the report, an informed citizenry is a fundamental postulate of democracy. The Press is the most important instrument in our country for educating the citizens in matters of public importance so that they may form an independent judgment to play their role as the ultimate governors of the country. It can hardly be disputed that the ownership structure of newspaper establishments determine the character and style of news report and news display as also the editorial viewpoint and other comments on the events of the day. What gets self-censored and gets blacked out might be as significant as what gets reported. News and views take their colour from the attitudes and postures of management and such attitudes and postures are dictated by considerations of the primary interest of the newspaper owners. The Press cannot be truly free if the communication industry is the channel through which opinions and values of its capitalist owners are disseminated for, in such a situation genuine freedom would exist only for those who control the Press.
- X. 49 The joint stock company is the predominant type of ownership of newspapers in our country. It means generally the dominance of a few shareholders. The pattern of editorial working follows the pattern of ownership. When an industrialist owns a paper, it is subsidiary to some other industrial, business or commercial interest. Justice Frankfurter said in this context that freedom of the Press can be achieved by freeing the Press from the clutches of Press barons. If freedom of expression has to play its basic role in our democratic polity, it must be freed from the steamrolling of the commercial process so that it may mean maximum amount of freedom of expression for the maximum number of people.
- X. 52 We think that in the interest of the public it is necessary to insulate the Press from the dominating influence of other business interests. We propose the enactment of a law in the interest of the general public making it mandatory for persons carrying on the business of publishing a newspaper to sever their connections with other businesses to the extent indicated hereinafter by us. In this context we are using the expression 'person' in its legal sense so as to bring within its ambit individuals, companies, trusts, etc. The central idea underlying the legislation would be that a person carrying on the business of publishing a newspaper should not have, directly or indirectly, an interest, in excess of the 'prescribed interest', in any other business, or be in a position of being controlled, directly or indirectly, by any other person or person having an interest, in excess of the prescribed interest, in any other business. The expression 'business' should be defined to mean anything which occupies the time, attention and labour of a person for the purpose of profit but not any activity in the nature of exercise of a profession.
- X. 53 We are conscious that it would be impracticable to make the proposed legislation applicable to all persons carrying on the business of publishing a newspaper at one stroke. We are of the view that, in the first instance, it should be enforced in the case of all persons who are in a position of controlling the publication of one or more daily newspapers with the same or different titles, in one or more languages, the circulation of which, taken singly or cumulatively, exceeds one lakh copies per day. We do not think such a classification would be hit by Article 14. In *Gujarat v. Ambica Mills Ltd.*, it was held that the legislature cannot be required to impose upon administrative agencies tasks which cannot be carried out on a large scale at a single stroke. If the law presumably hits the evil where it is most felt, it is not to be overthrown because there are other instances, to which it might have been applied. There is no doctrinaire requirement that the legislation should be couched in all embracing terms. The piecemeal approach to a general problem permitted by under inclusive classifications is justified because legislative dealing with such problems is usually an experimental matter.
- X. 54 We think the legislature is competent to enact the proposed law under Article 19 of the Constitution.
- X. 56 The detailed scheme of the proposed legislation has to be worked out by competent draftsmen. We are indicating here only the broad outlines of the same. There are two aspects of the proposed legislation. Firstly, the person carrying on the business of publishing a newspaper should not have, directly or indirectly, an interest, in excess of the prescribed interest, in any other business. Secondly, the person carrying on the business of publishing a newspaper should not be in a position of being controlled, directly or indirectly, by any other person having an interest, in excess of the prescribed interest, in any other business. The expression 'prescribed

interest', will have to be defined in this context. We think the aggregate interest of the person carrying on the business of publishing a newspaper in any other business or businesses should not exceed ten per cent of the total interest involved in the publication of the newspaper. For example, in the case of a company publishing a newspaper, its aggregate interest in other businesses should not exceed ten per cent of its subscribed share capital. On the other hand, persons having interests in any other business or businesses should not, taken together, be allowed to have more than ten per cent interest in the business of publishing a newspaper. For example, in the case of a company publishing a newspaper, not more than ten per cent of its subscribed share capital should be allowed to be held by persons having interests in other businesses. These considerations will have to be kept in mind while defining 'prescribed interest' in relation to the two categories of persons involved viz., persons carrying on the business of publishing a newspaper and persons having interest in other businesses, and, the manner of computing the 'prescribed interest' in the case of different categories of 'persons' will have to be precisely laid down. While computing 'prescribed interest' it would be necessary to equate loan interest (excluding loans from public lending institutions such as banks) with share holding or other interests.

- X. 57 The proposed legislation will also have to work out a concept of 'control' by persons having interests in business other than that of the newspaper concerned.
- X. 58 Our inquiry in regard to ownership of newspapers has revealed that most of the newspaper companies bringing out large circulation newspapers are clustered within the umbra or, at any rate, within the penumbra of giant industrial and business houses. The leading newspaper company, Bennett Coleman, has the House of Sahu Jain as its 71.15 per cent shareholder and Bennett Coleman has in turn cross holdings in companies of Sahu Jain House. The Goenkas who control the Express Group of newspapers and the Sahu Jains who control the Bennett Coleman & Co. are related by marriage. The newspapers brought out by them command a lion's share of elite readership in the country. The newspaper companies in turn have huge investments in concerns other than publication such as banking, jute, sugar, Ayurvedic medicines, automobile parts, electronics, plantation, steel rolling, groundnut oil mills, paper mills, textiles, agro-industrial units, etc. There is therefore need to safeguard against control of newspapers by other commercial interests through their associates. The proposed legislation should bar such an eventuality also by defining the term 'associate' much more comprehensively than in section 6 of the Companies Act. It should not be necessary that the associate must be doing any business as he may be a dummy or a man of straw who lends his name out of obligation to the person doing business. **संयमन नयन**
- X. 59 To enable persons engaged in or connected with publication of existing daily newspapers who come within the purview of the proposed legislation to divest their interest in other businesses, a reasonable time-limit may be prescribed by the law for the purpose. If the shares of a newspaper company are not readily purchased by eligible persons from the open market, such shares should be acquired and held by an autonomous body or agency to be specified by the legislation till they are purchased by eligible persons. The proposed legislation should provide machinery for computing the sale price of the shares to be divested.
- X. 60 The proposed law should provide for filing of a declaration, once in six months, by every person coming within its ambit, stating that the newspaper is not being published in contravention of the provisions of the proposed legislation. The appropriate authority before which the declaration may be filed would be the Magistrate authenticating the declaration of the newspaper under Section 5 of the Press and Registration of Books Act. On receipt of a complaint that the declaration filed by the newspaper undertaking is false, the MRTP Commission or such other independent or autonomous authority should have the power to enquire into the matter and enter a finding on the complaint. If the declaration is found to be false, the Magistrate acting under the PRB Act should have the power under Section 8B thereof to cancel the declaration of the newspaper filed under Section 5 of that Act. Accordingly, Section 8B of the PRB Act should be amended to include breach of the proposed legislation as a ground for cancelling the declaration. This penalty would be in addition to the penalty attracted by a false declaration under Section 176 of the IPC.
- X. 61 We are conscious that the newspapers which will come within the ambit of the proposed legislation are all quality newspapers rendering good service to the community. As the First Press Commission said, just as the public have a vital interest in the purity of their water supply, so

they have an equally vital interest in the accurate and fair presentation of news and views. The profit motive does not serve the interest of the public in the area of supply of information which should be regarded as the most important public utility in a democratic society.

- X.62 S/Shri Girilal Jain, Rajendra Mathur, H. K. Paranjape and S. K. Mukherjea do not subscribe to the views expounded and recommendations made in this section.

6. *Price-page schedule and news-to-advertisement ratio*

- X.64 A paper with a large circulation, because of its lower cost of production per copy, enjoys certain advantages over other papers with smaller circulation. Similarly, a paper with large capital resources is free from certain handicaps which affect a paper with limited resources. A paper of long standing which has been able to build up a large and stable volume of advertisement revenue is in a very advantageous position as compared to others who have just entered the field. It is true that such economic advantages and handicaps exist in a number of industries but their presence in the newspaper industry is not conducive to the even and healthy development of the Press.

- X.65 Newspapers serve as media for the free exchange of information and of ideas. The proper functioning of democracy requires that every individual should have equal opportunity, in so far as this can be achieved, to put forward his opinions. The freedom of the Press rests on the assumption that widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public. It is, therefore, necessary to reduce the differences due to economic advantages or other causes. Newcomers should be enabled to start publication with a fair chance of achieving success. Fixing a minimum price at which newspapers of a particular size could be sold, is the most effective measure to bring about an atmosphere of fair competition.

- X.66 Advertisements occupy a substantial proportion of space in newspapers. It is imperative to ensure that the reader gets an adequate proportion of news and views and that advertisements are not reduced in effectiveness because there are too many of them. It is the reader who pays the net cost of the paper, partly as its price and partly through the advertised goods that he purchases.

- X.77 As the Enquiry Committee on Small Newspapers observed, whereas the selling price of an industrial product is always above its cost of production, that of a daily newspaper is much below its cost of production and, how much below it is in a given case, is determined by the volume of advertisements carried by it. As already pointed out, the re-sale value of old newspapers in our country is very high and is an important consideration that weighs with an average reader in making his choice of a newspaper. In view of this a newspaper giving more pages for the same price commands a larger circulation which also enables it to get more advertisements which in turn puts it in a position to be able to further reduce its selling price. In most other industries, in spite of the existence of a few big units, a new entrepreneur can enter the field because the big units cannot reduce the sale price of the product below its cost of production. As seen above, this is not true of the newspaper industry. There are other handicaps too! Apart from the physical limitations on the market of a daily newspaper, a stale issue cannot be sold as newspaper. A new entrant's survival itself may be rendered difficult if the established units in the field raise the number of pages offered by them for the same selling price as that of the new entrant. For the freedom of the Press to be effective, the present degree of dependence of newspapers on advertisements has to be lessened and the importance of circulation as a principal source of revenue must be enhanced.

- X.78 Looking to the prevailing condition of the Press today, we are convinced that the prescription of a price-page schedule with a news-to-advertisement ratio is absolutely essential for promoting fair competition among the existing units and for providing a fair chance of success to newcomers in the interest of diversification of the sources of dissemination of information so as to provide for expression of a broad spectrum of views. While arriving at this view we have not been oblivious of the fact that those papers which are today attracting a disproportionately large amount of advertisement revenue are utilizing it to a certain extent for improving their quality and subsidising the selling price for the benefit of the readers. We suggest that an expert committee be set up to work out a price-page schedule after taking into account the present-day economics of publishing a newspaper. As regards the proportions of news and advertisement in a paper, we recognise that the advertisement rates charged by newspapers

vary very widely. In view of the need to help the small and medium newspapers overcome the disadvantage of lower advertisement rates and smaller number of pages we recommend that the news-to-advertisement ratio should be fixed at 60 : 40 for big, 50 : 50 for medium and 40 : 60 for small newspapers.

- X.91 The Constitution confers several fundamental rights upon the citizen under Article 19. Article 19(1)(a) speaks of the fundamental right of freedom of speech and expression. A person carrying on the business of publishing a newspaper, no doubt, exercises this freedom of expression. At the same time he is also engaged in a business activity for the carrying on of which he can also claim the right to form associations, the right to enter into partnership with others in carrying on his business, the right to move freely throughout the territory of India and the right to reside and settle in any part of the territory of India. Thus, if a publisher of a newspaper claims several fundamental rights under Article 19 in respect of his business, he cannot claim exception from the restrictions to which each of those rights is subject. The fact that the publisher carries on a business would attract the restrictions envisaged in Articles 19(4), 19(5) and 19(6).
- X.92 Therefore, when the Constitution confers on a citizen several fundamental rights, the power to make laws which impose restrictions in public interest appropriate to each fundamental right will be attracted. And, if the true nature and character of the law made in the exercise of that power is that it imposes reasonable restrictions on the right to carry on a business, then it is not invalidated if it affects incidentally matters which are outside this authorised field. Any other construction would lead to absurd results and would nullify the expressed powers conferred by the Constitution on the legislatures. If a publisher of a newspaper claims six fundamental rights, it is only proper that he should be subject to all the restrictions which are appropriate to the fundamental rights claimed.
- X.93 It would seem that in *Sakal Newspapers* this aspect of the matter was incorrectly decided.
- X.99 There is no warrant for the assumption that any law or executive action authorised by law which increases the price of a newspaper, or which diminishes the circulation would necessarily violate the freedom under Article 19(1)(a). It may be noticed that the restrictions which can be put on the fundamental rights under Articles 19(2) to 19(6) do not refer to tax at all. But a tax is a restriction on business. A tax on the sale of newspapers might diminish the circulation of the newspaper by increasing the cost to the purchasers. So also a tax on advertisements published in the newspaper might diminish the revenue from advertisements by which the cost of the newspaper might go up. Consequently, such a tax, being a restriction, will affect the freedom of the Press. For this reason it cannot be held that a restriction by the imposition of tax on the sale of newspaper or on advertisements published therein is a law in respect of the freedom of the Press; such a law is, in pith and substance, a revenue law which imposes reasonable restriction on the business of publishing newspapers.
- X.100 As regards regulation of advertisement space in newspapers, we are of the view that a mere fall in circulation on account of a law regulating the business or commercial aspect of speech would not be hit by Article 19(1)(a). There is no question of a law regulating the extent of advertisements in a newspaper violating the freedom under Article 19(1)(a).
- X.101 The decision of the Supreme Court in the *Sakal Newspapers* case merits a review. Laws for the welfare of labour, laws restraining monopoly and laws imposing a tax on the sale or purchase of newspapers or on advertisements published therein cannot be declared void merely because they would, to some extent, regulate the freedom of speech and of the Press.
- X.102 Even if an amendment of the Constitution is required to give effect to our proposals regarding price-page schedule and news-to-advertisement ratio, we are of the view that such an amendment will not destroy or damage the basic structure of the Constitution. No doubt, Article 19(1)(a) has been held to be a basic structure of the Constitution; but a law prescribing a price page schedule or news-to-advertisement ratio is not a measure which will destroy or damage that freedom; on the contrary, its object being promotion of competition and prevention of monopoly, the law will advance freedom of speech and expression.

S/Shri Girilal Jain, Rajendra Mathur, S. K. Mukherjea and H. K. Paranjape are opposed to the prescription of price-page schedule and news-to-advertisement ratio.

7. *Internal Relations and Right of Reply*

- X.104 In the case of a large newspaper operating in modern conditions, the right of the owner to have his point of view expressed through the newspaper should not extend beyond laying down the policy of the newspaper and the appointment of an editor of his choice. The editor chosen ought to be a man of known ability and integrity and should have sufficient authority to conduct the newspaper in public interest while following the policy laid down by the owner.
- X.105 Journalistic freedom is the heart of freedom of the Press. The journalist should have an atmosphere of freedom. But the unity of purpose of the newspaper can be ensured only by the concentration of ultimate responsibility in one particular person and by the development of a spirit of co-operative enterprise whereby everyone realises that he is working towards a common goal.
- X.106 The editing of big newspapers cannot be done or supervised by one person. Proper distribution of responsibility is inescapable. The adequacy of the editor can be sustained only by proper delegation of authority, viable distribution of work and by the habit of the widest possible consultation. It is only the cooperative endeavour of the entire editorial staff that can make for standards in a newspaper. However, the ultimate responsibility in the production of a newspaper should vest in the editor.
- X.113 & 114 To provide an effective safeguard against proprietorial or managerial interference in editorial independence, there should be legislation for interposition of a board of trustees between the management of a large daily newspaper and its editor. The legislation should be applicable in the first instance only to daily newspapers with a circulation of over one lakh copies. The policy of every such newspaper should be clearly laid down in writing. The function of the boards of trustees would be to ensure that full effect is given to the policy of the newspaper and to act as umpire in disputes between the editor and the management of the newspaper. The trustees should be public men of unquestionable integrity and of eminence in the field of journalism, law, science, medicine, education or such other learned profession. They should be appointed by the managements of the newspapers themselves in consultation with and with the approval of the Chairman of the Press Council and the Chief Justice of the High Court or the Chief Justice of India, as the case may be, depending upon the area of circulation of the newspaper concerned. In the event of a difference of opinion between the Chairman of the Press Council and the Chief Justice on the choice of the members of the board of trustees submitted to them by the management of a newspaper, the view of the Chief Justice should prevail. Every board of trustees should consist of three members and they should be subject to rotational retirement every year or once in two years in the interest of continuity. S/Shri Girilal Jain, Rajendra Mathur, H. K. Paranjape and S. K. Mukherjea are, however, not in favour of the recommendation.
- X.115 The editor of a newspaper should ordinarily be appointed for a reasonably long term of say five years, unless he happens to be approaching the age of superannuation.
- X.117 If individual newspapers experiment with internal ombudsmen, they might be able to improve their relationship with the readers and show acceptance and understanding of their responsibilities.
- X.119 & 120 It is, no doubt, desirable to provide for a right of reply, as in our country, it is very difficult and cumbersome at present to pursue a case of defamation. The purpose of providing a right of reply is that the public should not be misled. Non publication of a reply may be indicative of malice on the part of the newspaper and the plaintiff can attribute it in defamation proceedings while its publication will be a mitigating factor in the matter of awarding damages for defamation.
- X.120 & 121 It is not appropriate to lay down that the reply should get the same prominence or display, or the same amount of space as the original report. It should best be left to the good sense and discretion of the editor as it depends, among other things, on the news fall at a given time. For the present, a right of reply should be recognised by convention as a part of professional ethics and complaints alleging denial of right of reply should be looked into by the Press Council, as it is already doing. Dr. H. K. Paranjape is, however, against authorising the Press Council to look into such complaints in view of the recommendation made in Chapter VII for giving the Council penal powers.

## CHAPTER XI

## NEWS FLOW : INTERNAL AND INTERNATIONAL

- XI.9 & 10 There is a definite role for small agencies in providing news of local interest and significance, as well as for agencies offering news and comments in different perspectives. We would like to see the emergence of more agencies specialising in photographs, cartography and other visuals.
- XI.11 There is scope for the pooling and country-wide dissemination of the more significant stories of success and failure in rural development—in economic terms as well as of social change—selected from the coverage done by local news agencies in different parts of the country. Any news agency, wire or non-wire, which comes forward to undertake such pooling and dissemination and demonstrates its organisational and professional competence to do so would deserve financial support from the Newspaper Development Commission.
- XI.12 & 15 A good news agency set-up should be capable of ensuring a continuous flow of information from and to the people. This social responsibility has to be recognised as part of the concept of freedom of the Press. News agency reporting should be linked to a greater extent with the life and problems of the rural people, the news agencies have to explore hitherto untapped areas of news to give news reporting a new purpose and utility.
- XI.29 We consider that big newspapers are in a position to pay much more as subscription to the wire agencies.
- XI.35 & 37 A rational and equitable basis for working out AIR's payment to the news agencies is essential. In the event of a dispute raised by a news agency or agencies or by AIR/Doordarshan regarding the rates of subscription, it will be appropriate to refer the dispute to the MRTP Commission. The sound approach would be to determine the payment on the basis of the total revenue derived by AIR from licence fees and commercial advertising, the amount of broadcast time applied to news bulletins and the extent of contribution made by the news agencies to the news broadcasts. The same approach should be applied also in the case of Doordarshan.
- XI.38 Any formula that is worked out to determine AIR and Doordarshan's payment to news agencies should take into account the fact that the broadcast media have a large stake even as newspapers do, in the growth of the news agencies.
- XI.39 The growth component proposed by us in the rates to be paid by the Press and the broadcast media is on the basis of the technology of news transmission presently employed by the news agencies. This is distinct from the *development* resistance to news agencies that has been envisaged by us as one of the functions of the proposed Newspaper Development Commission.
- XI.42 The new technology of facsimile transmission has great possibilities but large scale adoption of it by Indian news agencies will have to wait till telecommunication facilities are further improved and the production of equipment becomes cheaper. The facsimile trans-receiver machines developed in India, can, however, be of use even now for the transmission of photographs, maps, charts and other material not requiring high-speed transmission, by agencies dealing in visuals.
- XI.45 & 50 Ideally an Indian language news agency—or a federative system which brings several regional language agencies together—should develop through the pooling of resources by newspapers published in Indian languages. A cooperative enterprise launched by publishers of Indian language newspapers in the manner in which PTI and UNI were formed, but with more broad-based participation, would be commendable on several counts. If, however, neither the existing agencies nor the Indian-language newspapers come up with a satisfactory scheme for the provision of an efficient news service in Indian languages, we recommend that a statutory corporation should be set up. Sarvashri Girilal Jain, S. K. Mukherjea and H. K. Paranjape are opposed to the idea of a statutory corporation.

Chapter No./ Paragraph No.	Recommendation
XI.47	So far as news services in English are concerned we recommend that the present position in which PTI and UNI offer competitive services be left undisturbed.
XI.48	It is necessary that the claims made by the different wire agencies regarding wordage put out per day, number of subscribers etc. should be assessed objectively on the basis of uniform criteria. This can be done for the present by the Press Council and more appropriately by the Newspaper Development Commission, when it comes into being.
XI.49	All the news agencies should strive to provide better service to newspapers through wider rural coverage and a broader range of themes. In order to discharge the hitherto neglected functions the agencies will have to introduce new services. Some of these might require subsidy. We are of the view that such assistance should be sought by the news agencies from the Newspaper Development Commission and not directly from the Government. All subsidies should be temporary and should be gradually withdrawn.
XI.57	The News agencies should make a special effort to improve the spread of their shareholding.
XI.58	The Central and State Governments should in fixing the rates of advertisements fix two rates: one for daily newspapers which do not subscribe to any wire agency, and a higher rate for dailies which subscribe to a wire agency.
XI.59	To provide for public accountability and to ensure the representation of medium and small newspapers, we recommend that in addition to the directors elected by the shareholders, the board of directors of each wire agency should have : <ul style="list-style-type: none"> <li data-bbox="379 1072 1407 1126">(i) A director jointly nominated by the Speaker, Lok Sabha and the Chairman, Rajya Sabha (who need not necessarily be a Member of Parliament).</li> <li data-bbox="379 1159 1407 1214">(ii) A director nominated by the Chairman, Press Council (who need not necessarily be a Member of the Press Council).</li> <li data-bbox="379 1247 1407 1301">(iii) Two directors representing the small and medium newspapers respectively, by co-option if such directors do not happen to have been elected.</li> </ul>
XI.60	When the Newspaper Development Commission is set up, it should also have a nominee on the board of directors of each of the wire agencies.
XI.61	Shareholding newspapers should nominate only journalists as their representatives on a news agency board.
XI.62	UNI and Samachar Bharati should adopt a limitation on voting rights broadly on the PTI pattern.
XI.67	The cost of maintaining Indian correspondents abroad, of their travel within the country and regions assigned to them and the cost of transmission are so high that no Indian news agency can finance its foreign operations from its own revenues. Assistance from the Government on substantial scale is therefore inescapable. Given the constraints of the country's resources of foreign exchange, it is evident that it will not be possible for the Government to assist more than one agency to expand the number of bureaux abroad for the collection and dissemination of news.
XI.70	The Commission is of the view that it will be rational and expedient to assist PTI to improve its international operations both for collection of foreign news and the dissemination of Indian news abroad. However, it is not our intention that any other agency should be prevented or discouraged from news collection and dissemination abroad. We recommend that assistance be extended for operations abroad by UNI or other news agencies also in respect of selected neighbouring and other countries, news from which is of great interest to Indian readers.



Chapter No./ Paragraph No.	Recommendation
XI.71	We welcome the recognition by the Government of the inescapable need to meet part of the cost of maintaining news agency correspondents abroad. We recommend that this policy be continued and further liberalised so as to fill up the yawning gaps in the coverage of Africa and Latin America and large parts of Asia.
XI.72	The External Affairs Ministry spends a substantial sum on preparing and sending news bulletins for the benefit of Indian Missions abroad. PTI felt that the bulletins could be prepared within the parameters of policy and transmitted fast and more economically by the agency. We think the suggestion is worth consideration.
XI.73	We recommend that the Government might take a comprehensive look at the structure of Overseas Communication Service rates. The Newspaper Development Commission may keep a constant watch on the situation and may suggest lowering of rates unilaterally by the Overseas Communication Service in appropriate cases in the interest of the development of international services of Indian news agencies.
XI.74	While providing assistance for international coverage, the Government should ensure that the news agency sends out correspondents who know the languages of the respective countries to which they are posted.
XI.88	The Commission broadly agrees with the recommendations of the Conference of Communication specialists and Administrators from South Asian Countries organised in September 1980 by the Indian Institute of Mass Communication in New Delhi, which endorsed the basic approach of the MacBride Commission's Report.
XI.90	We recommend that India should continue to play an active part in drawing up and implementing programmes from year to year under the international programme for Development of Communication.
XI.91	We welcome India's participation in the non-aligned news pool and recommend that the Indian news agency handling the work of the Pool should not merely be a passive recipient of material sent by other participating news agencies but should actively seek news and background information on tasks faced by India in common with other developing countries.
XI.92	We recommend that the editorial staff of Indian newspapers should be on the look out for and utilise to a greater extent useful information pertaining to Third World countries.
XI.93	We recommend that adequate resources be made available to the Indian Institute of Mass Communication for the continuance and expansion of the training of news agency journalists from various countries of Asia, Africa and Latin America.

## CHAPTER XII

### TRAINING AND RESEARCH

XII.23	Because of the unique nature of the Press, we recommend, on the one hand, that journalism training should be expanded and improved and, on the other, that journalism should continue to require no prior licence for entry.
XII.26	Journalism training is a proper concern of the Press Council and we have recommended suitable amendment of the Press Council Act in Chapter VII.
XII.27	In the qualifications prescribed by U.G.C. for recruitment as Lecturer in Journalism, work experience in a newspaper or other communication agency should be made an essential requirement. As regards posts of Readers and Professors, there ought to be a balance between academic qualifications and experience. There are subjects that ought to form part of journalism education and for teaching which an M. Phil. or Doctorate can appropriately be insisted on, with the teacher not necessarily being part of the journalism faculty. The imparting of the practical skills of journalism, however, requires experience of many years at responsible level in newspapers or news agencies of repute. Such experience, together with a good academic background should be deemed to be more than equivalent to M.Phil or Doctorate.

Chapter No./ Paragraph No.	Recommendation
XII. 29	University departments of journalism should utilise teachers in other departments such as, Sociology, Economics, Politics and Linguistics. The full-time faculty strength should be supplemented, for teaching of sub-editing and reporting, by drawing on the services of retired editors and senior practising journalists to conduct units of courses on a part-time basis or as Visiting Professors.
XII. 30	In view of the considerable growth in the language Press which is to be expected in the coming decades, the need to train manpower for Indian language newspapers has particularly to be borne in mind. Exceptions apart, practical training in journalism should be imparted in an Indian language besides English.
XII. 31	It is pointless for each university to institute a journalism course. But there should be at least one university or professional training facility of high standard in every major linguistic region.
XII. 32	We recommend the establishment of a National Council for Journalism Training, preferably to be sponsored by the Press Council of India. It should comprise not only journalism teachers but also newspaper publishers and editors and distinguished men of letters. Such a Council could institute fellowships for training and research and awards for meritorious performance in journalism. In time, it can begin to supervise and certify journalism training. The certifying body need not be statutory.
XII. 32	Journalism training institutes should pay particular attention to the imparting of reporting skills. The emphasis should be as much on problem identification and analysis as on interesting description.
XII. 35	Training institutions, organisations of publishers and editors and the Press Council should encourage preparation of text-books in the nature of model work books which will serve as practical guides in trainee journalists, specially in Indian languages.
XII. 36	There is need to encourage specialisation in reporting on developments in such areas as science and technology, economic affairs and social change.
XII. 37	We suggest the institution of correspondence courses for training district and block-level part-time reporters. Peripatetic training teams and training personnel on a part-time basis should supplement more formal, full-time training.
XII. 38	We recommend the holding of workshops for exchange of experience among teachers and practitioners of journalism, specially in the Indian languages.
XII. 39	Admission to all journalism courses should be after aptitude tests.
XII. 40	Ways should be found to attract trained women journalists in larger numbers to the Press, particularly Indian language newspapers, by providing facilities such as transport to their homes after late duty or night shifts.
XII. 41	Training should comprehend not only the skills but also the values of journalism. It should be part of training to make the would-be journalist realise that he can contribute to the economic and social betterment of the under-privileged.
XII. 42	Trainees should be made aware that they are going to play a very responsible role as 'gate-keepers' of news.
XII. 58	The research in connection with the Satellite Instructional Television Experiment brought out the limitations of centralised communication and the need, if communication is to be effective, for decentralised preparation of messages addressed to specific rural communities in the dialects which they actually speak. The findings are of relevance to the growth of the Indian language Press.

Chapter No./  
Paragraph No.

## Recommendation

- XII. 60 to 62 The findings of the audience research conducted by All India Radio and Doordarshan are generally not available to researchers and the public. We are of the view that it will be in the public interest to know how much listening there is to the various programmes addressed to different sections of the urban and rural population. In the absence of such information there has been little realisation of the need to organise community listening/viewing facilities for social education programmes. One limitation of the Audience Research of All India Radio is that it confines itself almost entirely to members of families owning radio or television sets, whereas the majority of listeners and viewers are non-owners. Another limitation of audience research is that it does not generally take into account the audience below the age of fifteen. There appears to be need to make the audience research of AIR/Doordarshan more broad-based so as to cover non-owning listeners/viewers as well as the adolescent audience. We are of the view that the research design and findings should be made accessible to qualified researchers for the mutual benefit of AIR/Doordarshan (who ought to have critical appraisal of their research methodology) and to the academic community of communication scholars (through access to data on the reach and impact of the electronic media).
- XII. 64 The I.I.M.C. should publish the findings of its communication research as a matter of course.
- XII. 69 Communication research can become socially relevant and useful only to the extent that it frees itself from its commercial moorings and becomes an instrument for promoting non-formal or social education.
- XII. 70 It is desirable that institutions engaged in communication research should keep each other informed of their present and proposed studies.
- XII. 71 When an apex body for journalism training emerges, as recommended in XII.32, it will be fitting for it to concern itself with the promotion and coordination of communication research, with particular reference to newspapers. Such a National Council for Journalism Training and Communication Research might be sponsored jointly by organisations of newspaper publishers and editors, the Press Council and the proposed Newspaper Development Commission with support from AIR/Doordarshan.

Differences of views on certain points have been mentioned in the Abstract of Recommendations. On a few major points, some of us have appended minutes of dissent. On other points all of us are in agreement.

K. K. MATHEW

*Chairman*

SISIR KUMAR MUKHERJEA

*Member*

P. V. GADGIL

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ISHRAT ALI SIDDIQUI

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RAJENDRA MATHUR

"

GIRILAL JAIN

"

M. R. GANESH

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H. K. PARANJPE

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RANBIR SINGH

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PREM CHAND VERMA

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A. N. MULLA

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G. N. S. RAGHAVAN

*Secretary*

New Delhi

(The Report was signed by the Members on various dates from 29th March to 3rd April 1982).

## AN AREA OF DIFFERENCE

(i) *Joint minute of dissent by Shri Justice Sisir Kumar Mukherjea, Shri Rajendra Mathur, Shri Girilal Jain and Prof. H. K. Paranjape.*

### PART I

When the First Press Commission finalised its report in July 1954, India was still a land of heart's desire struggling to be born. Men and women of vision regarded her a tabula rasa, a clean slate on which they could inscribe their own ideals. The country was an isle full of noises, sounds and sweet airs and its leaders were Ariels. The thrill of beginning a new experiment was in the air, and in their innocence, they believed that they would soon be fashioning a new society which would be a model for the rest of the world. The country owes a lot to that generation because without their vision, courage and even innocence, India as we know it today would not have existed.

2. For many of the distinguished members of the First Press Commission\* refashioning the Press was part of the larger enterprise of refashioning society. When the First Press Commission came to the end of its labours, the Avadi Session of the Indian National Congress, which adopted, too hesitantly for some, a "socialistic pattern of society" as the nation's goal was still some months away. The middle class intelligentsia were waiting to watch, and to participate in, the working out of an alchemy which would fuse together the concepts of democracy and socialism in a gigantic crucible. And the Press was to be one component of the alchemy.

3. Twenty-eight years later, we, the dissenting members of the Second Press Commission, cannot pretend that 1982 is 1954, and that we have learnt nothing from the souring of dreams. Ours may not be a generation distinguished for vision or idealism, but it surely has more experience, and a greater awareness of pitfalls. We cannot pretend that the grand experiment envisioned in 1954 is still on and that the restructuring of the ownership of the Press is still a part of the grand design of restructuring the society and its property-relationships. In fact, the catchwords which were with us even ten years ago are now being given up, and there is little desire to tinker with the geometry of the stage in order to improve the drama. We thus find ourselves unable to share the ease with which the majority of our colleagues have reiterated (Chapter X) some of the postulates and recommendations of the First Press Commission in regard to delinking and diffusion of ownership and control, a statutory news to advertisement ratio, and compulsory price-page schedule.

4. When the First Press Commission was appointed in 1952, there was not a single daily in the country

with a circulation of one lakh. The *Times of India* printed 94,748 copies, the *Statesman* 65,032, the *Hindu* 69,748 and the *Hindustan Times*, a meagre 48,141. These were our four major newspapers from the four metropolitan centres. The position of Indian language dailies was even worse. *Swadesamitran* with 39,509 copies was regarded as a successful daily; so were *Sakal* (27,262), *Mathrubhumi* (25,736), and *Andhra Patrika* (23,086). There were no worthwhile dailies in several states and languages. The capacity of newspapers, therefore, to influence public opinion for good or ill was strictly limited.

5. And yet the First Press Commission remarked with some concern: "Out of a total of 330 dailies, five owners control 29 papers, and 31.2 per cent of circulation, while 15 owners control 54 newspapers and 50.1 per cent of the circulation. There can, therefore, be no denying the fact that there already exists in the Indian newspaper industry a considerable degree of concentration. We feel that there is a danger that this tendency might further develop in the future. We are of the opinion that it would not be desirable in the interest of freedom of choice that this tendency should be accentuated". (para 818). The Commission was even concerned that the Telugu daily *Andhra Patrika*, selling a pitiful 23,086 copies, accounted for more than 50 per cent of the circulation in its language area.

6. When the First Commission was deliberating, the influence of Britain of the thirties was too much with us. Its members, like many other Indian intellectuals, transposed the British Left's perceptions to a very different Indian reality. They did not talk of the ills which beset the Indian Press then, but of the ills which might beset it decades later. With a diffusion rate of only seven copies of daily newspapers per 1,000 of the population, the primary concern of the First Press Commission ought to have been the growth and expansion of newspapers in India rather than the distortions that might be created by the ownership structure.

7. Even now, twenty-eight years later, we do not have many mass-circulation dailies or weeklies in the country. In 1886, the Paris-based "*Le Petit Journal*" sold more than a million copies per issue. In 1900, the *Daily Mail*, London, crossed the seven figure mark. In 1979, the Japanese *Yomiuri Shimbun* sold over 13 million copies per day in a nation of just over 110 million. In Britain, with a population of about 55 million the *Sun* sells four million copies a day. We can cite many such instances; but these should suffice. In India in 1981, with a population of 68 crores, and 24 crores people at least nominally literate, there is not a single newspaper daily, weekly or of any other periodicity, chain or non-chain, linked with monopolies or totally non-linked, single or multi-edition—which has yet crossed the seven figure barrier. With the increase in the cost of newsprint and other inputs, it seems unlikely that the million mark would be crossed in the near future even by any multi-State newspaper. And even if a paper like the *Indian Express*, published from ten centres, were to cross it, it should not be a cause for

\*The members of the First Press Commission were: Justice A. S. Rajadhyaksha, Dr. C. P. Ramaswami Aiyar, Acharya Narendra Dev, Dr. Zakir Hussain, Dr. V. K. R. V. Rao, and Sarvashri P. H. Patwardhan, T. N. Singh, Jaipal Singh, A. D. Mani, A. R. Bhat, and M. Chalapathi Rau.

concern; for France and England are comparable not with India, but only with some of the Indian States.

8. In the case of the Indian languages, there is no daily selling more than five lakh of copies, although the *Malayala Manorama* and the *Ananda Bazar Patrika* may soon make it; and there is only one Tamil periodical, *Kumudam*, which has crossed the half-million mark. In many of the Hindi-speaking States, a circulation of 50,000 copies was something to crow about even ten years ago. State level weeklies have not yet come into existence in Hindi. India is thus nowhere near the point at which the countries of Western Europe stood even at the beginning of this century. Their problems, are, therefore, not our problems.

9. The majority view, it appears to us, is a nostalgic throwback to the days when metropolitan English language newspapers were dubbed contemptuously as the "jute Press" by the neo-Brahmin politician, the I.C.S. bureaucrat and the academic of Oxbridge vintage who looked down on the businessman and the industrialist who had taken over some of the British-owned newspapers. The monopoly of the mass circulation newspapers, the concentrations of ownership, the capacity to pollute the inky Ganga of the print-media at its source—all these eventualities which the First Press Commission apprehended have not materialised; but our colleagues appear to think they have.

10. What are the arguments which the majority members of our Commission have advanced in support of their recommendation, for delinking from other businesses, as an experimental first instalment, thirty-two daily newspapers each selling over a lakh of copies and for diffusion of their ownership and control?

11. One strand of argument runs thus: "The power, associated with control of means of production in the past has now been, to a great extent, transferred to those who control the mass media as it can no longer be sustained otherwise. Those who control the means of production try to control the media not only for profit but much more so for perpetuation of power associated with their possession of means of production". (Chapter X, para 46).

12. And again: "When newspapers are controlled by other big businesses they become vehicles of expression of the ideology of their owners and the selection, presentation and display of news in such newspapers would be dictated by that ideology. The newspaper industry in their hands becomes involuntarily the cultural arm of other businesses and industries. They become naturally antagonistic to the implementation of certain key Directive Principles contained in Part IV of the Constitution. It is enough for our purpose to say that legislative measures needed for achieving the goals of our State run counter to the vested interest of the owners of those big newspapers who have huge interests in other business." (para 37).

13. Delinking and diffusion, the interposition of trustees between the management and the editor, the price-page schedule, the fixing of a news-to-advertisement ratio, the imposition of a penal import duty on daily newspapers whose average page level exceeds 12 per day, all these are measures recommended by the majority to insulate the newspaper-office from the winds of production-relations which are blowing outside, so that the Press does not become a spokesman of the propertied classes, which they contend have always opposed measures designed to ensure social justice and to reduce disparities of income and property.

14. According to the school of thought whose arguments have found favour here, all institutions are inevitably moulded by the pattern of production-relations obtaining in a given society. The institutions may be social (family, marriage, caste), political (parties, elections, government, judiciary), academic (universities, seats of learning), or even aesthetic (folk arts, poetry and traditions), but they cannot avoid the tell-tale fingerprints of the economic processes which have shaped them. Thus according to this logic, insulation of the Press from production-relations as recommended by the majority should be a chimera, just as bourgeois democracy should be a chimera for them, because the Press is only the super-structure, the apex-manifestation of a whole range of economic processes which it has no power to control or regulate. But it seems that according to the majority, the twentieth century is not like the nineteenth, and that the Press is now not the super-structure, but a part of the foundational-structure of capitalism, so that without the active support of a monopoly-dominated Press, production-relations as they obtain today would suffer a grievous collapse.

15. This faith in the power of the Press is touching, but we believe that it is misplaced. We are living under the aegis of a mixed, plural system which has its own virtues and vices. The Press too is a part of that rich plurality. Pressmen cannot be turned into charming goldfishes swimming effortlessly in an artificially lit aquarium, protected from the eddies and whirls of their natural habitat. Is it feasible or desirable to put the Press under a glass-domed oxygen tent of its own, so that pure minds may breathe pure oxygen, and survive under a round-the-clock vigil?

16. Another strand of thought which runs through this portion of the Report (Chapter X, Section 5) is again riddled with contradictions. The majority members are dissatisfied not merely with the fact that the newspapers are linked to their owners but also with the fact that they are linked to their readers. On the one hand, they have a great revulsion against the sinful notion of profits on the other, they are scared of what might happen to newspapers if they come under the debasing influence of their readers. They want the newspapers to be delinked even from the temptations of circulation, because for the sake of circulations they might ponder to the leering, lascivious devil that is there in all of us.

17. The majority say: "But news when printed and published has to be sold. The newspaper-buying

public may not like unpleasant news or distasteful opinions. The production of newspapers... depends upon public favour. But how far are they entitled to court public favour in their efforts to earn more profits? To what extent do they betray their trust if they trim their news or their opinion to suit the public taste?"

18. Quoting Professor O.R. McGregor of the British Royal Commission on the Press, the majority state: "A newspaper cannot, therefore, raise its standard far above that of the public, and may anticipate profits from lowering its standard in order to gain an advantage over a competitor."

19. "A successful newspaper", they complain, "tailors its contents to the demand of mass circulation with a mixture of news, features, serial stories and pictures, all kept brief, designed for casual reading, slanted to entertainment value and intended to attract as broad a cross section of the potential public as possible." (para 48).

20. The complaint, in substance, is that a newspaper is a newspaper, and not a research journal or a sociological tract. The complaint is that newspapers present news and views in a readable form. The complaint is that they care for the readers.

21. We are of the opinion that this is another case of the British perception of British reality being transposed to the Indian scene. "Popular" and "quality" dailies (as they are known in England) do not yet coexist in India, because most of our dailies are "quality" ones, or are at any rate trying to emulate the virtues of the quality newspapers. Few of them are "popular", or trying to imitate the vices of popular British newspapers. Therefore, these fears are vicarious.

22. The majority state: "If the *raison d'être* of mass media is not to maximise discussion but to maximise profit by resort to sensationalism and extravagance, or to indulge in biased presentation and display of news and opinion with a view to boosting some personalities or carrying on propaganda against others, its performance will hardly comport with its social responsibility." And through their recommendations they expect to change this *raison d'être*.

23. But are these the major blemishes of the major newspapers of India? Although in other Chapters of the Commission's Report, tribute has been paid to the soberness, responsibility and sense of social commitment of the Indian Press, although it has been acknowledged that the "popular" Press of the West thriving on stories of sex and crime has no counterpart yet in India, in this portion of the Report the majority seem to believe that sensationalism and depravity are the major blemishes of the leading dailies of the country, which require instant rectification.

24. The class-character of the owners is not the only factor which worries the majority; the class-character of readership is also galling to them. News-

papers are oriented towards the urban elite, they grumble, (para 37) and lament that the rural masses, and the poorer sections of society, are neither covered properly, nor do they have as adequate a choice of newspapers as the richer city folks have.

25. In Chapter III (Role of the Press) the Commission has taken note of the fact that in spite of their urban middle class backgrounds, our journalists have an adequate sense of guilt, and that they go out of their way to highlight the problems of the oft-forgotten poor. But how is the Press to blame if its readership is predominantly urban? Surely it is not as if there is a ready market for another genre of rural newspapers in the countryside, which the Press in India has failed to serve? In producing a newspaper, how can anyone address non-readers? One can at the most make the readers aware of what the non-readers are missing.

26. In Chapter III, the Commission has visualised a three-tier development of the Indian Press consisting of papers having multi-State circulations, those having State-level impact, and those catering to clusters of districts. The district Press in India has not yet come of age, and the Commission has suggested various measures, including the setting up of a Newspaper Development Commission to assist its growth. But the nature and role of the three tiers is different, and a paper with multi-State circulation cannot be expected to play the role of a district paper, or *vice versa*.

27. There are other objections too. The majority want (para 50) to delink the Press from the boorish semi-literate businessman who wants to earn profits on what should be a public utility, who has no aptitude or training for the learned profession of running a newspaper, who is not steeped in the ethos of journalism, and would not fight for its causes, who cannot converse with an editor on the same intellectual wave-length, and cannot indeed brook the idea of an independent-minded editor. This approach, as we have said, is unrealistic.

28. "Persons who control the newspaper world ought to have an intellectual and educational background", the majority state. This time they have a quarrel not with the tastes of the readers, or the property background of the owners, but with the ethos of the proprietors. "A person who has taken special interest in the newspaper business itself is likely to have a greater understanding and competence in such matters. He is also more likely to fight for the principles for which he developed the newspaper. This is less likely to be the case with a businessman for whom the newspaper is one among many businesses or is an instrument to help his other business interests."

29. The idea here is that an owner should be ready to incur losses and even to preside over the liquidation of his business for the sake of the high ideals of journalism. But is it seriously believed that legislation can create such owner-martyrs? There would always be owners who are bold and

idealistic as well as owners who are timid and security-conscious.

30. The majority seem to think that mercantile winds are blowing over the Press more furiously than they do elsewhere. They say: "In a sense the trusteeship or moral responsibility of the Press is a kin to that ministers of religion, statesmen and leaders of public thought. In another sense it is subject to industrial and mercantile conditions that do not affect these other trustees in the same degree."

31. Is it true that the democratic managers of our political system are trustees unaffected by industrial and mercantile conditions? All the ills to which the press is allegedly heir have a more virulent counterpart in the political system. Not all our politicians are delinked from money-bags, nor are they delinked from votes, because of which they have to pander to the aspirations as well as to the bigotry and parochial interests of the electorate. All voters are not equal; there is a vote-tilting elite whose influence on the system is far greater than its numerical strength. If newspapers are vendors of news, politicians have to trade off assurances, and rose-tinted horizons, which may turn out to be phoney. Of course, this parallel does not absolve the Press; but parallel has been drawn only to point out that there are no panaceas.

32. And the majority, if they could have their way would have the newspapers delinked also from advertisements, because of which the papers are sold below cost, and for the sake of which they have to strive for a higher circulation. A higher circulation depends, according to the majority, not on the quality or the coverage of a newspaper but on its sensationalism. Since advertisers look out for a readership with high purchasing power, the 32 top dailies are forever on the look-out for an urban readership and perhaps wilfully shutting out the rural subscribers.

33. Editors, according to the majority, are caught in a pincer. On the one hand they have to play the tune which their masters want them to play; on the other, they have also to provide what the readers demand. Thus they have to part company with their conscience and conviction in the service of the two masters. The editor's mind, according to this view, is a hollow hulk from inside, of which noises emerge purely as a result of the interplay of the conflicting pressures of the owners and the readership.

34. The ultimate quarrel of the romantic revolutionary who wants to restructure human society is perhaps with the fact that society is human, and that human beings are so classed and intractable, so unable to transcend their human condition. The ultimate quarrel of the majority-members who want to restructure our most responsible and quality-conscious dailies seems to be with those very elements which place some of them qualitatively in the top class. They want them to be free by transcending every earthly necessity. The papers are enjoined to transcend the property interests and the cultural back-grounds of the owners, the depraved inclinations

of their readers, the necessity of a certain optimum proportion of advertisements and so on. Their vision of a restructured press could find embodiment only if the Press became a disembodied spirit, and severed all connections with the blood-vessels of the dark, messy womb of society within which it is growing and finding sustenance. Is it feasible? Can the Press grow like a bambino who is in the womb, and yet not a part of it?

35. The majority want the Press to be turned into a monastic order, with strict rules relating to celibacy, pollution, purity, penances, fasts, and so on. They want the profession to be handed over to a collegium of angels, so that newspapers are run by an ethical-intellectual aristocracy the like of which is to be found only in Plato's Republic. We have nothing but respect for this ardent vision, but we see no way of bringing it down upon this planet.

36. As we said, delinking would not exorcise the pall of curses which according to the majority hangs over the newspapers, the thirty-two big dailies, or the other 17,000 most of them poorly run. It would not turn this industry into a vocation, or give it a set of Hippocratic oaths. After newspapers are delinked from other interests, they shall still be run by owners, whoever they may be. Their ideological alignments will not necessarily be different from those of today's owners. The production-relations of our society shall not leave them untouched. Even monastic Buddhism, let it be remembered, could not be delinked from the prosperity of trading Vaishya castes, whose emergence made it possible for this non-conformist religion to prosper. The concern of non-linked owners with profitability is likely to be more absolute and obsessive because, being non-linked, they would have no other financial resources to cushion their losses, whether the non-linked owners would have any greater flair for or commitment to the profession of journalism is doubtful. In thousands of small and medium newspapers, we have non-linked owners; but is it seriously contended that their professional norms or ethical standards are higher than those of the linked ones? Are they better qualified to run their papers than those whose circulations have crossed one lakh?

37. If the big dailies are delinked, and their owners have no other business or industrial interests, how is it likely to curb the alleged tendency of the newspapers to sensationalise, and to pander to the baser instincts of the readers for the sake of circulation and advertisement? How is it likely to ensure that newspapers would no longer address themselves to an urban elite, that all of a sudden, their contents would undergo a sea-change so that a vast new readership waiting in the countryside would begin buying them by the million? Are the papers which are non-linked performing any such function? Is it not obvious that this problem has nothing to do with ownership links? The fact of the matter is that papers are not being read in the villages because of illiteracy, lack of purchasing power and lack of communications. It may be true that not many owners and journalists with



their upper or middle class backgrounds know what changes in content would make their papers appealing, useful, and instructive to a rural readership, but that is not the major hurdle, for if there were a potential market, papers with requisite contents would come up in no time.

38. The problem of the weak editor who is dominated by an overbearing owner is not solved by delinking; nor the alleged tendency of the editor to pass off a fake and adulterated opinion as his own (paras 35-36) under the twin influences of what the readers demand and what the owner wants to supply. In fact, apart from a few hundred newspapers who run their concerns according to some norms, weakly or strongly adhered to, quite a large part of the newspaper business follows no norms, and the institution of the editor, as distinct from proprietor, does not even exist in many among them.

39. As a matter of principle, and as part of an overall policy against concentration of economic power, it might be desirable to delink the Press from other industries. However, there is no specific evidence before us that industries with such links are exercising appreciable influence on the news and views which appear in such newspapers. We also find that no overall policy of curbing the growth and breaking up existing concentrations is being followed in the country, and any policy which affects only the newspaper industry may cause more harm than good. Moreover, it must be recognised that there is no virtue in delinking for its own sake. Delinking, if it is to be fruitful, must promote the growth of newspapers on right lines and not result in their emasculation and eventual closure. It is significant that no credible answer to the question how a newspaper could be properly run after it is delinked could be provided by any one who appeared before the Commission or submitted a memorandum. There have been some proposals which, on the face of it, appear to be impracticable. An alternative, like the running of a newspaper by an employees' cooperative has been tried and has failed. In such a situation, unless we can suggest a workable substitute, we consider it highly undesirable to adopt a doctrinaire attitude and to recommend delinking. It might starve a quality paper of necessary finances and spell its ruin. On an anxious consideration and having due regard to the absence of a feasible alternative, we are unable to recommend delinking merely as an article of faith.

40. To conclude, we are of the opinion that newspapers are neither all virtuous nor vicious. They are a mixed lot, but their plurality, we believe, should not be done away with through massive State interference, because the remedy would be worse than the disease. That, of course, does not mean that we are smugly content with things as they are. That is why we have whole-heartedly endorsed or made significant recommendations in this Report which we believe would change the journalistic scene in India. Even in regard to delinking and the price-page schedule, we are recommending elsewhere what we consider to be worthwhile alternatives.

41. We believe that it would be tragic beyond words if, in trying to turn the Press into a public utility, its viability as an industry were to be destroyed. Press as commerce and Press as a mission may seem to be too contradictory to reconcile on a purely abstract plane, but in real life such contradictions are resolved in a working synthesis.

## PART II

### THE ECONOMIC ASPECTS

#### *The National Monopoly Houses*

To begin with, the Commission decided to establish the facts—which of the newspaper undertakings were owned or controlled by a large industrial or business groups. The IIPA was engaged to undertake a study on this subject. On receiving the study, we found that, while it provided certain valuable material, it failed to arrive at clear and indisputable conclusions.

2. The study uses a category called “national monopoly houses”, but does not define it. It does not say what tests have been applied to include a particular newspaper undertaking in this category. The Commission found it difficult to pursue this matter further and therefore decided not to rely on this concept. In fact, it has been stated in the relevant Appendix that “it is not possible to come to a definite finding on the question whether the Bennett Coleman and Company (publishers of the *Times of India* group of publications) is a constituent of the Sahu Jain House”. Similarly the Commission’s office in its appraisal of the IIPA study comes to the conclusion that “it is not possible to confirm the IIPA report finding that the *Statesman Ltd.*, is an enterprise ‘under joint ownership and control of a group of private industrial houses’.” About the *Indian Express* group, it is clearly stated that “it is not possible to confirm the study finding that the *Express* newspapers belong to a National Monopoly House”.\*

#### *Why a New Category ?*

3. That is presumably why the report has evolved and used a different categorisation. The two most important categories under its scheme are: “(1) Newspapers owned or controlled by companies or undertakings or businessmen with interests in other businesses or industries”; and, “(2) Newspapers owned or controlled by companies or families or individual or groups of individuals with primary interest in newspaper business”.\*\* The approach is to include in category (1) all newspapers in which 50% or more of the ownership or control is held by companies or businessmen with interests in other businesses or industries. We find that this categorisation is based on nebulous concepts.

4. As for ownership, it is hardly possible for newspapers to be owned and run by individuals, companies or trusts with no other business interests.

\*Appendix X. 4.

\*\*Ch. X, paras 10-13.

The report itself further admits that, while determining the extent of control, "we have relied on *prima facie* evidence; for we could not undertake a detailed study of the working of every newspaper undertaking in the country."

5. The basis of this categorisation apart, surprisingly a group like the *Indian Express* has been included in category (1). Even the Monopolies Inquiry Commission had stated that the Express Group Chairman, Shri Ram Nath Goenka's "industrial interests (outside the Press) do not appear to be large." It is true that this finding was made in 1965; around 1969-70 Shri Goenka was involved in large-scale purchases of shares of the Indian Iron & Steel Co., and a company called Express Traders was set up, one of whose activities was to carry on the purchase and sale of shares on the stock exchange on behalf of the newspaper companies. But IISCO has since been nationalised and with that Shri Goenka's association with the steel industry has ceased.

6. Similarly his association with the jute industry also ceased as a result of the nationalisation of the National Company. Outside the newspaper world he is known to have acquired interests only in companies engaged in the real estate business. The main assets of those companies are the buildings which are used mainly to house the offices, etc. of his newspapers and also for letting out. It is true that the *Indian Express* Group of companies did not respond to the request of information from the reconstituted Commission on some of these matters. But that cannot invalidate Shri Goenka's evidence before the Commission in which he explicitly stated that "most of the buildings come within the purview of the newspaper company. The Express building also belongs to the newspaper. Every penny earned by the Company has been ploughed back to the Company itself". He also pointed out that for quite a long period now he was not a director of any company outside the *Indian Express* Group.\*

7. For the purpose of the categorisation made in the report, only newspaper companies in which either 50 per cent or more of the shares are held by persons with their main interests in other industries or businesses, or in which more than 50 per cent of the directors held directorship of other companies or businesses unconnected with newspaper publishing and allied fields are included. This latter categorisation is also difficult to understand. It is well known that a large number of individuals are appointed on boards of directors mainly for the purpose of obtaining the benefit of their knowledge and experience. Many of them do not necessarily have much control by way of share ownership in the undertaking in which they are directors. Some companies do not even require qualification shares to be held by their Directors. Bennett Coleman is one such company. Therefore, to take note of the other directorships held by directors of a given undertaking, and on that basis

to say that a substantial control over the newspaper company is exercised by persons with interests outside the newspaper business, is again to take an unrealistic view of the manner in which businesses are organised and directors are appointed.

8. In the case of *The Statesman*, the report\* proceeds on the ground that three of the five directors have interests outside the newspaper industry. But it is well known that Shri J.C. Shah, a retired Chief Justice of India has only a nominal shareholding in the *Statesman* Limited. By calling he is not a businessman and, whatever other directorships he holds, as for example in the Bombay Gas Company, he does by virtue of his knowledge and experience. In fact, Shri C.R. Irani is known to control *The Statesman* and his own interests are confined to the newspaper world.

9. It is, however, not difficult to understand why the report seeks to build up this category by using criteria which are neither meaningful in terms of the actual working of business concerns nor very logical and clear. For it is obvious that our colleagues have done so in order to find support for their recommendation in favour of delinking the ownership and control of newspaper undertakings from other businesses.

#### *Are Commercial considerations irrelevant?*

10. We have no quarrel with the general propositions which are laid down in the report regarding the necessity to ensure "the fullness and unbent integrity of news and comment on news."\*\* We wish some notice of the State monopoly in India in the field of broadcasting had been taken in this context. But nothing has been said on the implications for the Press of State monopoly in broadcasting.

11. We are principally concerned with the assumption that in order to ensure that newspapers are properly conducted, it is necessary to delink them from other businesses. The majority quote with evident approval the phrase "the jute Press". This is highly unfair to the Indian Press. It is also factually inappropriate. The jute industry is in the doldrums and this declining industry cannot be said to exercise much control over any important newspaper concern. They use unfortunate phrases such as "professional mercenarism". But they do not give serious consideration to the fact that the Press has to be run as an industry, a business, and only its successful conduct as a business can enable it to satisfy the interests of its readers and of society. The report shows a peculiar hostility to business considerations. "Although the first duty of a newspaper must remain the supply of reliable and comprehensive news and honest editorial comment, it is obvious that, after all, the business is concerned directly with the value of its advertising and the cost of its newsprint."\*\*\* If these are to be ignored, how is the Press to operate? By relying on subsidies from Government, or by becoming sick? The report merely shows disregard for economic considerations

\*Appendix X.7.

\*\*See Chapter X, para 34.

\*\*\*Chapter X, para 48.

\*Also see Shri Goenka's interview in the *Sunday* magazine 7-13 March, 1982, pp. 19-22, "Every pie that I earned went into this expansion (of the Express)."

without any understanding of the nexus between the freedom of the Press and its commercial soundness.

12. The country accepts a pattern of mixed economy in which large inequalities of incomes and consumption continue, and consumerism is not only permitted but encouraged. It is then realistic to expect that newspapers should not use advertisements from such producers as a major source of revenue. Is not the Government itself permitting the broadcasting media under its direct control to obtain revenue from advertising in the same manner? Moreover, how can delinking of the ownership and control of newspaper business from other types of business bring about a change in the attitude to and role of advertising in the newspaper industry, unless it is to be assumed that the delinked papers can ignore commercial considerations?

#### *Alleged Impact of Links*

13. It has been alleged in the report that newspapers controlled by other big businesses become vehicles of expression of the ideology of their owners, and the selection of news in such newspapers is dictated by that ideology. The report cites no evidence to support this contention. Nowhere does it show that the choice of news for prominent display differs significantly in newspapers which are differently owned.

14. In support of their charge of prejudice on the part of major newspapers in favour of "vested interest", the majority have said that they have opposed policies and legislations that went against the interests of private big business such as the Companies Act, the MRTP Act and nationalisation proposals. The least they could have done was to show that all leading newspapers had taken the same line on these and similar issues and that those newspapers which are not linked with other businesses (e.g. *The Hindu*, the *Ananda Bazar Patrika* or *Sakal*) took a different line. In the absence of evidence to that effect it is a mere conjecture to suggest, as the report does, that, "legislative measures needed for achieving the goals of our State run counter to the vested interests of the owners of these big newspapers who have large interests in other businesses."

15. A reference is made in the report to the Vivian Bose Commission (1962) which inquired into the Administration of Dalmia-Jain Companies and pointed out some of the malpractices indulged in by the businessmen then controlling the affairs of Bennett, Coleman & Co. The implications of this have not been spelt out. Does it imply that businessmen should not control newspaper undertakings? By this logic, no major industry should be left in the hands of private entrepreneurs. Moreover, is it suggested that such malpractices and manipulations are to be found only in large business organisations, and not in medium and small business organisations? Above all, is it not common knowledge that Government companies and departments are not immune from similar practices?

16. It has also been pointed out in the report that it was stated in the evidence before the Commission that attempts were made to suppress the circulation of news reports about these matters not only by the newspapers belonging to this Company but by newspapers generally.\* From the data on which the majority relies, it is apparent that the *Statesman* gave an adequate coverage to the report. The *Hindu* carried a story based on the PTI version. This can be characterised as inadequate. But, on the basis of this instance which too has not been fully investigated as indicated by the fact that the story in only two newspapers has been cited, what conclusions can be drawn? Surely the recommendation for delinking cannot be based on so slender a basis.

17. A further point made in this context is that "particular individuals or groups could manage through various devices like inter-corporate investments, etc., to exercise a degree of control, grossly disproportionate to their own financial contribution or stake in the newspaper organisations". The data given in the Palekar Award Report of the slender capital base of a company like Bennett Coleman is cited in this connection.\*\* But what inference regarding delinking can be drawn from this? This can happen in any well-established or financially well-managed concern, delinked or otherwise. And is this to be deplored?

18. Mention has been made in the report of a Bill that had been prepared in 1971 to bring about a change in the ownership of newspaper companies. Comments also appeared in newspapers about serious thought being given by the Government in 1974 to this question, and even the preparation of the draft of a Bill in this regard. Apparently, after deliberation, the authorities came to the conclusion either that the move was not feasible or that it was not desirable.

#### *Linked Units—Nebulous Concept*

19. As explained earlier, the concept—"newspapers owned or controlled by companies or businessmen with interests in other industries", is both nebulous and of doubtful utility. A much better way of approaching the problem would be to use the approach taken by the Monopolies Inquiry Commission whereby the substance of control was sought to be examined.† Where data showed that a particular business was substantially or effectively controlled by a particular business group taking into account various data, such as shareholding—with various inter-lockings and other methods of control through shareholdings, inter-locking directorships, etc., these were treated as belonging to the same business group. This of course would have been a formidable task for a Press Commission.

20. The other and more practical approach for our Commission would have been to take the criteria laid down in the MRTP Act, viz., either the undertakings whose own assets together with the assets

\*Chapter X, para 41.

\*\**Ibid.*

†See Annexure A to Appendix X.4.

of interconnected undertakings are not less than 20 crores of rupees in value or a dominant undertaking where the assets together with the assets of interconnected undertakings are not less than one crore of rupees in value. Bennett, Coleman & Co. Ltd. which controls the *Times of India* group of newspapers, and the *Indian Express* group are already registered under section 20 of the MRTP Act, so also the *Eastern Economist* of the Birla group and Associated Publishers (publishers of the defunct *Mail of Madras*) of the Amalgamation group.

21. If the majority had decided merely to confine their efforts to show that the *Hindustan Times* is controlled by the Birla group, the *Anand Bazar Patrika* by the Sarkar family and the *Hindu* by the Kasturi family, there would have been no real difficulty. The difficulty arises because of the desire to establish something for which there is no clear evidence. For example, the majority wants to prove not only that the *Indian Express* Group of newspapers is controlled by Shri Ram Nath Gienka but that Shri Gienka and his family are substantially interested in other lines of business. They want to do this because their recommendation regarding delinking would lose much of its relevance at least for some of the protagonists of this idea if the *Indian Express* and the *Statesman* are excluded.

22. Some information about the *Indian Express* Group of companies has already been given above. *The Statesman* Limited is the other case of the same kind. Except for two corporate shareholders holding 12.56 per cent and 7.48 per cent of share capital, there are no other companies among the top 10 shareholders. Andrew Yule and Company Limited, holding 12.56 per cent, is now a Government of India enterprise. Thus, Guest Keen William Limited with 7.48 per cent shares, is the only private undertaking which is a top shareholder. The other top shareholders are combinations of individuals. The report claims that these "include a number of people connected or associated with big business undertakings".\* This is a strange statement as there is no way in which it can be verified. Some of the individuals are lawyers, one is an educationist, one a medical practitioner and one a chartered accountant. They may also be associated professionally or in other ways with some business concerns. But it is highly inappropriate on that ground to say that this proves that the *statesman* limited is controlled by individuals who are otherwise interested in other industries and business. The report refers to an allegation that shares of the *Statesman* held by a number of individuals are held in *benami* names.\*\* The circumstances during the Emergency in which corporate shareholders of the *Statesman* felt obliged to transfer these shares have been mentioned in the Appendix. Shri C.R. Irani, in his evidence before the Commission, also referred to this matter and contended that the corporate shareholders transferred their shares in order to avoid pressure from the Government.

23. As regards the board of directors, it is said that three of them, Shri J. C. Shah, Shri Birendra Mukherjee and Shri C.C. Choksi held other directorships. As the report puts it, "three have links with big business undertakings including some companies registered under the MRTP Act." But this cannot be taken to be a proof that the company is under the control of individuals with main interests in other industries or business activities. The data given in the Appendices show that the shares held by these individuals are quite a small proportion of the total shareholding. It is thus obvious that their "control" arises more from the confidence reposed in them by the majority of shareholders. It will thus be seen that the inclusion of the *Statesman* in this category is also more due to the pre-conceived notions of the majority of our colleagues than to an investigation made on the basis of any proper analysis.

24. A further example can be given. It relates to the Thanthi Group.\* The data available with the Commission only suggests that Shri B. S. Adityan who appears to be the major trustee of the Trust which controls the newspaper— "also holds directorships" in a number of other companies. No proof has been produced to show that he has a controlling interest in any of these companies or that he is substantially interested in these industries.

25. The three examples show that our colleagues are ready to categorise newspapers undertakings on the basis of slender data.

#### No Scrutiny of Product Monopoly

26. It would have been quite meaningful if the Commission had attempted to locate instances of product monopoly in the case of newspapers in a proper sense of the term. The Commission has adopted a definition of "dominance"\* which we accept. But no attempt has been made to collect data which would suggest whether by that criterion any newspapers are dominant in their respective areas of circulation. The result is that at the end of the Commission's labours we are no better off in understanding the extent to which there is monopoly in the newspaper industry in any scientific sense of the term.

27. The Commission has provided data about the circulation of two dailies with the highest circulation in each state in 1979 (Appendix IX.9). But as admitted in the report\*\*, there is no real competition among newspapers which come out in different languages. And if we take the newspapers in the particular language, it will be found that there are only a few situations of either dominant or monopolistic undertakings in the sense in which the MRTP Act uses these terms given if we make the wholly unrealistic assumption that the whole state constitutes an effective market for a newspaper. *Malayalam Manorama* in Kerala, *North East Mirror* in Shillong, *Samaj* in Orissa, *Punjab Kesari* in Punjab, *Tribune* in Chandigarh and *Nav Hind Times* in Goa have a circulation exceeding one third. Of these, all except *Malayalam Manorama*, *Punjab Kesari* and *Tribune*, are dominant in states where

\*Appendix X.7.

\*\*Ibid.

\*Ibid.

\*Chapter X, para 32.

\*\*Ibid.

the overall circulation of newspapers is pitifully small. Similarly, situations of "monopolistic" undertakings are also to be found mostly only in small states or states in which the total circulation of newspapers is very small.

28. If we examine the data given in Appendix X.10 about the circulation of the top two dailies in each language over the whole country, we find that the only cases of dominant units are those of *Dainik Asom* in Assamese, *Ananda Bazar Patrika* and *Jugantar* in Bengali, *Praja Vani* in Kannada, *Malayala Manorama* in Malayalam, *Samaj* in Oriya, *Hindustan* in Sindhi and *Eenadu* in Telugu. Even if we assume that the whole area of a language is to be treated as an effective market, quite an unrealistic assumption, this shows that what are popularly called monopoly papers are not dominant in the proper sense of the term.

29. Thus, the *Indian Express* with its 10 editions and the *Times of India* with its three editions together account for only 37 per cent of the total national circulation of the English language dailies. The really significant cases of monopolistic situations are those of *Ananda Bazar Patrika* in Bengali, *Praja Vani* in Kannada, *Malayala Manorama* in Malayalam and *Eenadu* in Telugu.

30. In any case, the majority does not claim that there is a dangerous monopoly situation in the newspaper industry; or that the existence or even the expansion of chain newspapers in the relevant areas would create such a situation. No clear case for any urgent action in this respect has, therefore, been established in the report. Of course, we agree with the majority view that there is no reason to exempt the newspaper industry from the MRTP Act.

#### Use of the MRTP Act

31. Our differences with colleagues in this regard arise from the further recommendation made by them relating to what they all delinking and diffusion of ownership and control. In this context, the initial point which we would like to put forward is that, while we entirely agree with the basic approach laid down in the Directive Principle (Article 39 of the Constitution) that the operation of the economic system should not result in the concentration of wealth and means of production to the common detriment, and therefore, with the basic approach underlying the MRTP Act, we do not think that it is either appropriate or necessary to go further and single out the newspaper industry for discriminatory treatment in this matter.

32. The question about the growth of concentration of economic power of some of the large private business groups has been in the public eye for at least 20 years now, and the matter has received much public attention. The extent of such concentration was highlighted in the Report of the Monopolies Inquiry Commission in 1965. The manner in which instrumentalities under the control of Government operate to help sustain and increase such concentration were brought out and remedies suggested in the Report of the Industrial Licensing Policy Inquiry Committee (1969). When the MRTP act was passed in 1969 and the MRTP Commis-

sion set up in 1970, it was expected that rapid steps would be taken to examine to what extent some of the existing concentrations are against the public interest and, where this was found to be so, measures would be taken to bring about de-concentration. There was a provision for such action under section 27 of the MRTP Act.

33. What has happened in the period of over a decade is well known. Little action has been taken to bring about any de-concentration, the only case regarding which a reference was made under section 27 of the MRTP Act being that of the *Indian Express*, a reference which was made during the internal emergency period in 1976 when the *Indian Express* group of newspapers had become anathema to those in the ruling circle of Government. That this was a political action pure and simple was underlined by two further developments. When as a result of certain negotiations between the Government of India and the *Indian Express* Group, the Board of Directors of the *Indian Express* Group was reconstituted and Shri Ram Nath Goenka agreed to have a Government nominee as Chairman, the Government nominated Shri K. K. Birla as Chariman. Shri K. K. Birla was not only a prominent industrialist and one of the main persons controlling the large industrial house known by their family name, but was also already Chariman of another major newspaper company, the *Hindustan Times* Limited. In spite of this, the Government thought it fit to nominate him as Chairman of the *Indian Express* Group. The reference under section 27 of the MRTP Act was withdrawn in 1977 when a new Government came into power.

34. Whatever that might be, it can be clearly seen that the Government has hardly shown any interest in using the MRTP Act, and especially Chapter III of the Act, for bringing about any de-concentration of economic power in respect of large business groups. Not even one case has been examined with a view to ascertaining whether the existing concentration is harmful to public interest. Moreover, in the latest Industrial Policy Statement of August 1980, various concessions to large business groups have been announced. In March 1982 itself, the Prime Minister has clarified that Core Sector industries would be open for entry by Large Industrial Houses. In such a situation, would it not be invidious to single out the newspaper industry as one where some special and early steps for bringing about delinking and de-concentration should be taken?

35. A major objection to the newspaper industry being singled out for separate and special treatment in this matter is that there is enough evidence to suggest that there has been an increasing tendency on the part of the Government to create difficulties especially in the way of those newspapers which show an independent outlook. The larger newspaper undertakings are in a better position to maintain their independence than the smaller ones, though there have been excellent examples of some small newspapers who have shown courage to brave the wrath of the authorities. It would, therefore, be risky to arm the

Government with further powers in relation to newspaper undertakings.

### *Use of Press Units as Adjuncts*

36. The report speaks of a tendency among those who control newspaper undertakings to use these as adjuncts of other types of business. They have pointed out that the profits of a newspaper undertaking may be used for the benefit of other business. The only example cited in support of this is that of the *Indian Express* whose management used the funds of the newspaper companies to buy shares of IISCO. The explanation given by the management is that this was an attempt to invest the newspaper funds in a 'blue chip' for the benefit of the newspapers. We cannot pursue—the Commission has not pursued—this enquiry further. The data are inconclusive. Moreover, this argument can also cut the other way. For, there are instances of owners having used their profits in other industries to finance newspapers. As it happens, not many newspapers in the country make substantial profits, and their position is likely to deteriorate further as a result of rising costs.

37. The report also cites the example of Bennet, Coleman & Co. It has made a provision in its Memorandum of Association to carry on other business activities such as (1) rural development; (2) chemicals, cement, synthetic fibre and yarn and jute industries; (3) manufacture of items using jute, bamboo, grass, sugarcane, hessian, gunnies, asbestos, waste paper, etc.; (4) processing of agricultural produce and making of oil etc., from the same; and (5) manufacture of paper. The Company has also decided to add shipping and electronics to its business activities and the necessary application for amendment of the Memorandum of Association has already been made. While we agree that such diversification may be undesirable and should be discouraged, it is apparent that such additions to the Memorandum of Association cannot have been made without the approval of the Government, and we understand that the Government has given such approval in this case.\*

38. Moreover, a company registered under the MRTP Act—as this company is—cannot take up new activities without the Government's permission under that Act. But, as pointed out earlier, it is not at all certain what use Government will make of these powers. The inter-connections between this newspaper undertaking and other undertakings can also be scrutinised and an enquiry ordered under section 27 of the MRTP Act if this is found necessary. But Government has not used these powers. We see no point in arming Government with more powers. It would have been a different matter if the majority had recommended that an independent body like the MRTP Commission should be authorised to scrutinise all such matters. They have made no such recommendation. They have only proposed that any action under the MRTP Act in respect of a newspaper undertaking should be taken after consultation with

the Commission so as to ensure a public hearing of the matter. We support this recommendation.

### *Indifference to Labour*

39. It has been stated in the report that "odd exceptions apart, commercial newspapers do not normally find a word to say in sympathy with the legitimate demands of the working class".\* It is true that most large newspapers are not too pro-labour; the trade union side of industrial disputes and problems of rural labour often do not receive their sympathetic attention. But to some extent this is in keeping with the overall professional inadequacies that we find in the newspaper industry. It has little to do with the ownership structure, because it is not as if delinked papers or smaller papers—except those run by political parties of the left or by committed individuals—act differently. Similar is the case in a number of other fields. There are large geographical areas in the world, including many Third World countries, to which little attention is paid even in our major newspapers. The same holds for science and technology and many basic social and economic problems facing the country. But these inadequacies are not likely to be removed by delinking. In fact investigative journalism which has unearthed the oppression of bonded labour, agricultural labour and Harijans as well as many other oppressed sections has been more vigorously pursued in what have been considered by the majority in the Commission as 'linked' papers as much if not more than the unlinked ones.

40. Where taste for information on literature and the arts is lacking, the taste has to be created. Reports and features on these subjects have to be obtained, written up in a manner where they will be appreciated by new classes of readers and the general level of readership raised. Financially strong papers can do this more easily. Thus what is required is an improvement in the financial strength of newspapers and also better training facilities for journalists and greater competition among newspapers. We support such measures. That is why we have been so enthusiastic about the unanimous recommendation of the Commission for the setting up of a new organisation—the Newspaper Development Commission—for this purpose and would like the Government to give it the highest priority.

### *Dislike of Good Editors*

41. The Report also states that "newspaper proprietors today dislike editors and editorial writers of strong personality. They prefer that their own personalities should be served by expert scribes, who can be trusted to advocate whatever view the proprietor may wish to proclaim. In the old days many proprietors cared.....for the freedom of the Press"\*\*. Leaving aside this constant harking back to the old days when proprietors—and everyone else—are supposed to have been must better, one may well ask what proof there is that newspaper proprietors dislike editors and editorial writers of

\*Letter from the Company Affairs Department to the Press Commission (No. CLB/WR Bench/Cen/82, dt. 16-2-1982).

\*Chapter X, para 37.

\*\*Chapter X, para 48.



strong personality ? None of the editors who are Members of the Commission have had such experience. There would obviously be some proprietors who prefer to have only submissive persons working with them as editors; but there would be others who are different. Unless the proprietors are not interested in, making their newspaper ventures a success, they would obviously not like to have editors or editorial writers who make no impact on the public mind because in such an event their papers would have less credibility and this cannot but affect the circulation of the paper. At the same time, there are personalities in all walks of life, whether it is newspapers, other businesses or politics, who are so egotistical that they would expect nothing but subordination and sycophancy from their employees or followers. It is, however, usually understood that such an approach is self-defeating, short-sighted and does not help long-term success whether of the business venture or of the political organisation.

42. It would indeed be a short-sighted and stupid business magnate who will appoint a sycophant or a stooge as an editor of his newspaper, because that way lies the road to ruin of the newspaper as a business. In fact, such cases may be found more frequently, not among large newspaper enterprises where proprietors cannot but be more careful with the very large investments which are involved, but in smaller enterprises where the proprietors themselves are rather inadequate in their education and business undertaking. Among the newspapers which have suffered as a result of interference by management, one finds examples not of those belonging to large newspaper organisations, but of small ones.\*

43. The report says : "Persons who control the newspaper world ought to have an intellectual and educational background". A person who has taken special interest in the newspaper business itself is likely to have greater understanding and competence in such matters.\*\* While this statement is unexceptionable, does it imply that all those who control a newspaper undertaking should be either journalists or those who are communications specialists ? If so, it will require a change in the whole set up of ownership and control not only in the private sector but also the public sector; for it will pertain to the qualifications of owners as well as Ministers. By this logic, many of our top people in various fields should not hold the positions they do. There is here a confusion between true ability and aptitude on the one hand and formal education on the other.

44. The report makes the point that a proprietor "who has taken special interest in the newspaper business itself is likely to have greater understanding and competence in such matters. He is also more likely to fight for the principles for which the developed the newspaper". This proposition ignores the possibility that such a person is likely to interfere far more

with the edition if the editor is different from the proprietor. Evidence before the Commission confirms our impression in this regard.

### *The French Ordinance*

45. In support of the proposed measure, to delink newspaper business from other business activities, the report cites\* an Ordinance issued in France in 1944. The emphasis of the French Ordinance, which was issued on the second day after the Liberation of Paris in August 1944, is on ensuring that everything important about the ownership and financing of a newspaper should be open to public scrutiny. It prohibits the flow of foreign money in any form in a newspaper undertaking. It also attempts to ensure that different newspapers do not get linked under a common direction. But it is well known that no administrative regulations or procedures for follow up of this last provision have been prepared and hardly any action taken against the concentration of ownership in the newspaper world. Increasing costs, intensive competition from radio and TV and other economic compulsions appear to have persuaded the French authorities to put the Ordinance in cold storage. This history emphasises what our colleagues in the majority would like to ignore; the compulsions of the economic logic of a mixed economy and modern technology under which the Press has to function.

### *The Proposal for Delinking*

46. An equally curious feature of the report is that the proposal of delinking is to apply to newspapers with circulations of one lakh and above. As mentioned above, there is not the slightest proof—if there is any proof, it is to the contrary—that these newspapers are either professionally or otherwise not serving the reader and the country in a reasonable manner. It is true that the majority approach is that one must make a beginning somewhere; but then why make a beginning with that section of the Press which is, by and large, serving the country better than the other sections ? Why disturb them and take the risk that the reading public and the country will be ill-served for quite some time to come as a result of the possible disturbance to the smooth functioning of these newspapers ?

47. We are also unable to agree with the impractical proposals the report has put forward in this regard. Delinking\*\* is expected to take the form of "a law in the interest of the general public making it mandatory for persons carrying on the business of publishing a newspaper to sever their connections with other business". Such a person, in the sense of an undertaking, "should not have directly or indirectly an interest in excess of the prescribed limit, in any other business...." In this context, "business" is supposed to mean "anything which occupies the time, attention and labour of a person for the purpose of profit". This last part of the definition is likely to lead to

\*For example, see the record in this respect of the Associated Journals Limited—the special report in *India Today*, February 15, 1982. This is not a business enterprise, but one run by a trust under political control.

\*\*Chapter X, para 50.

\*Chapter X, para 51.

\*\*See Chapter X, para 52-53.



anomalies similar to those which attempt to distinguish between amateurs and professionals in the field of sports. It will merely mean, that those who describe themselves honestly as businessmen will have to be replaced—and can easily be replaced under the proposed measure—by those who describe themselves as practising other professions.

48. It has been proposed that “the person carrying on the business of publishing a newspaper should not have, *directly or indirectly*, an interest, in excess of the prescribed interest, in any other business. Secondly, the person carrying on the business of publishing a newspaper should not be in a position of being controlled, *directly or indirectly*, by any other person having an interest in excess of the prescribed interest.”\* The ‘prescribed interest’ is defined as interest exceeding ten per cent of the total interest involved in the publication of the newspaper. While there would be no difficulty in limiting the interest of the newspaper undertaking itself in other business activities to 10 per cent or less of the value of the assets of the undertaking, what would be difficult is to limit the interest of other persons who *directly or indirectly* control the newspaper. If it is the Chairman or the Managing Director whose interest is sought to be limited, that would pose no difficulty. But if this is to be applied to all directors, the implication would be that no director with any other business interests or holding directorships anywhere else can be a director of a newspaper company. This approach will do no good to a newspaper company.

49. A question arises whether this restriction is to apply even to shareholders. The report speaks of *direct or indirect* control. If this is to mean that the shares of newspaper companies are only or mainly to be owned by those who have no other business interests (including shareholding), they can then circulate only among persons who do not normally buy shares. This would confine the shareholding to a very limited group of persons. As it is, the shares of newspaper companies cannot be attractive because often there are no profits or very small ones. This restriction will make the shares even less attractive.

50. There are two other aspects of the proposals which need to be noted: One is that if the shares are sufficiently widely distributed among the public, even a 10 per cent shareholding can ensure control. It will also not be difficult if those in charge of the undertaking reorganise their shareholdings in such a manner as to satisfy the requirements of law and still maintain their control. In this context, a statement made by the Chairman of Hindustan Times Limited\*\* on the proposal regarding the divestment of shares is relevant. He had pointed out then that this could be done without affecting the editorial policy and in effect the control of the paper.

51. The majority recognises such possibilities and points out that various steps will have to be taken to work out a concept of control which will make such manipulations difficult. They have mentioned

various possibilities of chain shareholding, *benami* holdings, etc., and suggested that special measures will have to be taken to prevent such practices. Among other aspects, they state, “A concept of shareholding interest will have to be developed to work out the controlling interest of such a person over the newspaper company. While tracing the controlling interest from one company to another certain mathematical rationale could be employed...” To take all types of direct or indirect beneficial interests, “it may be necessary to lay down that a person who is beneficially entitled to any shares shall be deemed (but not to the exclusion of any other person) to be in a position to exercise control of the voting rights in respect of those shares.... The concept of control which we contemplate is one which includes control as a result of or by means of agreements, *benami* transactions, trusts, arrangements, understandings and practices whether or not having legal or equitable force and whether or not based on legal or equitable rights”.

52. We have serious doubts whether the Commission is competent to go into these wider questions relating to the Companies Act and the MRTP Act. In any case, the Commission has not given adequate thought to these matters in its deliberations and we feel concerned at the manner in which the report includes recommendations which have not been properly discussed and examined.

53. The cavalier approach in the report is also well-illustrated by the statement about the family relationship between the “Goenkas who control the Express Group of Newspapers” and the “Sahu Jains who control the Bennett Coleman & Co.”\*\* It is mentioned that this is based on the fact that the daughter of Shri Shriyans Prasad Jain was married to the late Shri B.D. Goenka, son of Shri Ram Nath Goenka. But no mention is made of the fact that Shri Shriyans Prasad Jain or his daughter have no control over Bennett Coleman & Co.. On the basis of such slender evidence, a horrifying picture of monopoly is attempted to be built up. “The newspapers brought out by them (i. e., the marriage-related Jains and Goenkas) command a lion’s share of elite readership in the country”. And the industries in which Bennett Coleman hold share (the Express Group has no such major industrial shareholdings now) are mentioned to show the extent of the aggregate empire! The whole approach is unreal and based on a misconception.

#### *Dangers Involved in the Proposal*

54. The report also makes a proposal that every newspaper undertaking should file a declaration once every six months that the newspaper is not being published in contravention of the provisions of the proposed legislation. We wonder how any newspaper undertaking will be able to ensure that it has full information about the shareholdings of all its shareholders; how it will be able to make sure that it has information about *benami* shareholdings or various

\*Chapter X, para 56 (emphasis added).

\*\*See Annexure 1, Vol. VIII of the Report.

\*Chapter X, para 57.

\*\*Chapter X, para 58.

other indirect ways of holding and controlling shares. We are afraid that our colleagues have not really given enough thought to the practicability of the proposals they are making. In fact, some of them insist that practicability is not what they need to bother about. "Leave all that to Government", is their approach. Our fear is that such proposals can be used by those in positions of political and administrative power, to threaten newspaper undertakings so as to force them to fall in line with their wishes.

55. Our fears are justified by the approach taken in the report that on receipt of a complaint that the declaration filed by the newspaper undertaking is false, the MRTP Commission "or such other independent authority should have the power to inquire into the matter and render a finding on the complaint. If the declaration is found to be false, the magistrate concerned under the PRB Act should have the power... to cancel the declaration of the newspaper". Putting forward impracticable conditions to be fulfilled by newspaper undertakings, and then threatening them with inquiries which can lead to threats of closure is the surest way of arming executive authorities with powers which can be abused.

56. Our colleagues in majority say in the report that they are "conscious that the newspapers which will come within the ambit of the proposed legislation are quality newspapers rendering good service to the community".\* Yet in the interest of "accurate and fair presentation of news and views", they have recommended delinking. But, as we have pointed out, they have not adduced any evidence to show that the existing structure of ownership of major newspapers is leading to a distortion and unfair presentation of news and views. They quote the McGregor Commission's statement that "the Press should neither be subject to State control nor left entirely to the unregulated forces of the market", but fail to draw the correct conclusion and make recommendations which may easily lead to State control of the Press.

57. This is amply proved by their proposal that persons who come within the purview of the proposed legislation will have to divest their interests, "If the shares of a newspaper company are not readily purchased by eligible persons from the open market, such shares could be acquired and held by an autonomous body or agency to be specified by the legislation till they are purchased by eligible persons."\*\* A way is thus to be opened for the backdoor nationalisation of substantial equity interests in important newspaper undertakings. The natural result—if not necessarily the intention—of the recommendations of our majority colleagues is thus amply clear.

#### *No Strait/Jacket Solution*

58. This does not mean that everything is fine in the world of newspaper ownership and control. In fact, there is evidence that control of newspapers by businessmen with other business interests exposes them to the risk of pressure from governments and ministers. It has thus been alleged that the Govern-

ment tried in 1975-76 to put pressure on business concerns who were shareholders in the Statesman Ltd. to either sell their shares to nominees of the then Government, or at least hand over proxies to Government nominees so as to enable it to change the management and with it the editorial policy.

59. But our view is that there is no one and common solution which can be prescribed for all situations. To some extent, newspaper organisations themselves may carry out improvements, in form or in practice, or both, under pressure of public opinion. Witness the measure of independence editors in the Bennett Coleman & Co. group enjoy as shown by the evidence before the Commission.

60. *The Statesman* decided long ago that not more than 13 per cent of its shares should be held by any one business unit or group. When corporate shareholders found themselves under pressure, they took care to pass on their shares to individuals who, in their view, would respect the traditions and autonomy of the newspaper. The correspondence between Shri K. K. Birla and Shri B. G. Verghese brings it out that the proprietors of *The Hindustan Times* were agreeable at one stage to the creation of a trust to take over certain aspects of management. Similarly, Shri Ram Nath Goenka in his evidence before the Commission stated that it will be his endeavour to create some sort of an organisation of a trust which will keep this paper alive after his death.

61. Certain changes will come about voluntarily as public opinion develops to demand and support such changes. Meanwhile it is necessary to remember that the newspaper industry is a sensitive one, and any outside interference with it should follow, if at all, only after a most detailed and careful scrutiny, in each individual case, and the intervention should be the minimum necessary. A bull-in-the-China-shop approach will destroy such good institutions as exist, without putting anything better in their place.

#### *Proposed Board of Trustees*

62. The report has also gone into the question of editorial independence. It has cited two examples of conflicts between the management and the editor. Both these relate to important English-language dailies, viz., the *Hindustan Times* and the *Statesman*. We have no comments to offer on those two cases nor do we disagree with the conclusions in the report that it will be useful to have an overall editorial policy laid down by the proprietors, and the editor left free so long as he functions within that framework. Where there is a distinct demarcation between the editorial and the managerial departments, as happens to be the case in large newspapers we also agree that the editor, or the chief editor as the case may be, should have the authority and responsibility in respect of recruitment, training, posting and promotions of the journalistic staff assigning work to them and supervising it. Obviously it would also be a good management practice that the editor is appointed for a reasonably long term, five years or more, so that he can carry on his work with a long term perspective. All this is common ground between the majority and ourselves.

\*Chapter X, para 61.

\*\*Chapter X, para 59.

63. But we are unable to agree that difficulties regarding editorial independence arise only or mainly in newspapers with large circulation and that, therefore, steps be compulsorily taken regarding them.\* As we mentioned earlier, no proof of any kind is available to show that these papers are not doing their job properly or that their editors are suffering by way of interference or had treatment by their managements. No study is available to enable us to make a comparative statement regarding the position of editors in large, medium and small papers. But many of those acquainted with the journalistic world would vouch for the proposition that the position of editorial and journalistic staff is far worse in many of the medium and small papers than in the larger ones.

64. The report recalls the recommendations of the First Press Commission that the management of newspapers should be transferred to public trusts without making any changes in the ownership of the paper "If this suggestion had been acted upon by the owners of big newspapers", the majority report states, "perhaps we may have had no occasion to think of delinking ownership and control of newspapers from other business interests. It is precisely because the businessmen owning or controlling big newspapers have not acted on the advice of the first Press Commission of creating trusts for their management that we are obliged to seriously consider the question once again and seek other remedies."\*\*\*

65. While making this statement, our majority colleagues have overlooked the fact that the owners in no industry or business of any magnitude in the country have practised such self-denial. Even the government authorities have refused to part with control over the broadcasting media to public corporations.

66. The report not only proposes the delinking of all large newspaper undertakings from other businesses by legislation but also the creation by law of controlling-cum-advising agencies for them.\*\*\* These authorities are to consist of three members subject to rotational retirement. The members—public men of eminence—are to be appointed by the managements of the respective newspaper undertakings, "in consultation with and with the approval of the Chairman of the Press Council and the Chief Justice of the High Court or the Chief Justice of India as the case may be depending upon the area of circulation of the newspaper concerned".

#### *Editorial Independence*

67. We regard it highly invidious that all such measures should apply only to newspapers which by all accounts are reasonably well managed and conducted, and that small and medium newspapers should be left alone, even though many of them may be far from being professionally well conducted and the treatment of editors and journalists may be far from satisfactory. We think that it is only appro-

priate that, in the interest of the proper conduct of all categories of newspapers, some effort should be made to ensure that a degree of protection is provided to editors and journalists from capricious interference and treatment. We therefore think that, except in the case of newspapers whose circulation does not exceed 25,000 per issue (which may have to be excluded on practical grounds), all newspaper undertakings should be obliged to have a system by which the appointments, promotions, dismissals and disciplinary action regarding all editorial and journalistic staff should be subject to special scrutiny by a group of persons who are not involved in the ownership and management of the newspaper, and who can be expected to have both an appreciation of the public responsibilities of the newspaper and a status which will ensure that their advice will be acceptable to the managerial and proprietorial as well as the editorial and journalistic sides of the undertaking.

68. We therefore recommend that in all newspaper undertakings which are organised in the form of joint stock companies, one-third of the directors should be persons of eminence with experience in journalism, literature, administration, economics, law, science or other such professional fields. They should be selected by way of co-option by the Boards of Directors but should have a tenure of not less than three years each with a provision for rotational retirement. In the case of newspaper undertakings whether owned by trusts, or by individuals and partnerships, we recommend that an advisory board consisting of three members with backgrounds as indicated above should be constituted with a similar tenure and provision for retirement. The terms and conditions to be offered should be such as would enable capable persons to give the necessary time for accepting such responsibilities.

69. We further recommend that in all cases of appointments, promotions, dismissals or other disciplinary action relating to editorial and journalistic staff, the views of the special directors mentioned earlier, or of the advisory board as the case may be, must be ascertained by the managements of the newspaper undertakings and, in case there is a persistent difference of opinion between the management and these, the matter should go to arbitration.

70. We believe that it would be wrong to impose external control on newspaper undertakings because their owners and managers must remain responsible for their financial soundness and viability. We cannot, therefore, endorse the recommendation in the report regarding the appointment of trustees being subject to the approval of outside authorities like the Chairman of the Press Council or the Chief Justice. We also feel reinforced in our view by the fact that it would be impossible for the Chairman of the Press Council, however eminent and well-informed, to know about suitable persons in different parts of the country to work on the controlling boards of a large number of newspapers published in different languages. We would not like the Chief Justice either of the High Courts or of the Supreme Court to be involved in such work for two reasons.

\*Chapter X, para 39.

\*\*Chapter X, para 113.

\*\*\*Chapter X, para 113.

One : They will have no machinery through which they can obtain confidential information about the names suggested and they themselves will normally not be knowledgeable enough about persons who would be suitable for such work so as to suggest alternative names. Two : It may well be that differences arise and prove difficult to resolve and lead to legal disputes. Finally, we think it only proper that the owners and the managers, just as they would be entitled to lay down the policy of the newspaper should also be entitled to appoint the eminent persons whose advice they would like to seek. The ownership and management cannot be divorced from the technical operation of what in the last resort is a business undertaking. Protection should be provided only against temporary aberrations and capricious behaviour. Our recommendation would take care of this.

### *Groups and Chains Not to be Deplored*

71. There has been a persistent tendency in discussion relating to the Press industry not only to decry the relationships between certain newspaper undertakings and other business undertakings through business links and common ownership or control but even to speak about newspaper groups, combines or chains, as if these were in all cases to be deplored.

In this context, it needs to be kept in view that there are major economies of scale in the Press industry as in many others, and these arise on the journalistic, printing as well as commercial sides. Thus a newspaper group can benefit from the services of its own correspondents in different parts of the country and abroad and be in a position to offer more original news than its competitors. It can afford the services of high calibre cartoonists and also pay better for contributed articles. A good printing press with various up-to-date technical facilities can be intensively used if a number of publications are sharing its use. The purchase of various materials like newsprint and ink, the distribution of newspapers including incentives for distributing personnel, a well-organised advertisement department with its own technology and modern commercial practice, all these offer major advantages of economies of scale. There is no reason why these should be decried. In fact, the existence of groups and chains would enable better and richer newspapers to be brought out at less cost than would normally be the case otherwise. Some of the economies would accrue to a number of newspapers published from one centre, and some to multiple editions of the same newspaper published from different centres. Both are of significant importance.

72. A well-organised newspaper group, financially sound and commercially successful, would be in a better position to try its hand at new and pioneering attempts. On the basis of the successful functioning of the paper at one centre, it can attempt to set up an edition in another centre and sustain itself through the initially difficult period. It may similarly sponsor a newspaper in an Indian language, or a periodical, general or specialised. In all such

cases, a large initial investment has to be made, and a waiting period in which losses are unavoidable has to be faced. Only a successful newspaper undertaking can face such a challenge. If new ventures in the newspaper world are to be attempted, new tastes have to be created and various experiments launched. This may be possible mainly if not only for groups or chains or at least for well-established newspaper organisations. For any individual to venture in this field on his own is difficult. This does not mean that, if anyone is prepared to make such an attempt, he should not be supported. We hope the Newspaper Development Commission and public sector financial institutions will take the maximum interest in any such worthwhile attempts. But it should not be forgotten that the best chances of more and better but different newspapers coming up is through some of the existing successful and venturesome newspaper enterprises. It may sound ironical, but it would not be wrong to say that more competition among newspapers may be fostered through the venturesome activities of the stronger newspaper groups—some times called 'monopolistic'.

### *Other Measures of Curbing*

73. In addition to delinking and the application of M.R.T.P. Act to the newspaper industry, the majority have also stated that "other measures are necessary to ensure conditions of fair competition among newspapers".\*They point out that papers with large circulation can have lower cost per copy and those with larger capital resources will have fewer handicaps. Their approach regarding such situations is expressed in the following words, "It is true that such economic advantages and handicaps exist in a number of industries but their presence in the newspaper industry is not conducive to the even and healthy development of the Press".

74. They justify curbs on economically better off newspapers on the ground that the "widest possible dissemination of information from diverse and antagonistic source is essential to the welfare of the public." They rightly state that "newcomers should be enabled to start publication with a fair chance of achieving success". But, instead of relying on facilities such as those to be provided by the proposed Newspaper Development Commission or by public financial institutions, they regard it more appropriate to create difficulties in the successful functioning of the larger and better placed newspapers. They mainly rely on three measures for this purpose: (i) a limit on the number of pages to be permitted to a newspaper; (ii) a price page schedule; and (iii) a limit to the ratio of advertising space varying according to the circulation of the newspapers.

75. The main argument in favour of limiting the number of pages is that a large part of the newsprint has to be imported and that foreign exchange is very scarce. Therefore they have suggested that newspaper should get newsprint on a free-of-tax

\*Chapter X, para 63.

or minimum-tax basis only to the extent of what is required to bring out a twelve-page paper. Extra pages should call for either steep taxation or obligation to use paper other than newsprint which, of course, would increase the cost of the newspaper.

76. They have also argued that fair competition requires fixing of a minimum price at which the newspaper of a particular size should be sold. This they consider to be "the most effective measure to bring about an atmosphere of fair competition".\*\*

#### *The Price-page Schedule*

77. A point in favour of the price page schedule can be that, in respect of newspapers which directly compete with each other, established newspapers with larger circulations may enjoy a special advantage compared to the not so established competitors with lower circulation. This may happen because the former will attract considerable advertisement, and on that basis, will be able to provide more pages and also more news. It is said that a price page schedule will obviate this disadvantage.

78. It should be remembered in this connection that, to the extent that the price page schedule makes no distinction between the space devoted to advertisement and the space devoted to reading matter, it really amounts to forcing a reader to pay more than he needs to pay. This is not only unfair to the reader, but it is also a step which is likely to adversely affect the good quality newspapers whom we should encourage. What needs to be discouraged is excessive advertisement and not more reading matter. Moreover, for reasons given later, classified advertisements should be encouraged. We find that in the case of quality newspapers, they take up a significant portion of space. That is why a price page schedule is not proper but positively harmful to a proper development and improvement of quality newspapers.

79. An alternative to the price page schedule suggested by some is a kind of rule by which the price of the newspaper should at least cover the material costs such as newsprint and ink. It has been pointed out that, if a newspaper follows a price policy which does not ensure this, it is subsidising not only its overhead costs from advertisement revenue, but it is even subsidising its basic material costs from that source. In such a case, especially if its advertisement revenue is large because of its circulation and established reputation, it will make the position of an existing or potential competitor very difficult. This difficulty may become specially enhanced in times like the present when newsprint and other material costs are going up more rapidly than other costs. While a reader is certainly not attracted by the number of pages in relation to the price as the most important factor, it is not unlikely that if he finds that the price of a competing paper, much smaller in size, is actually higher a potential or even existing reader may be repelled unless the paper is of a special type or quality which appeals to

certain readers. It is, therefore, claimed that, unless some such relationship between the price of the newspaper and its material costs of production is ensured, it may bring about a destruction of smaller competitors prevent the growth of potential competitors and thus create monopoly conditions.

80. It must be conceded that this is a persuasive argument. Our answer, however, is that laying down any kind of general rule which should apply in all conditions to all newspapers is inappropriate. We do not see much logic in insisting upon a fixed relationship between material costs and the price of the newspaper, while showing flexibility regarding other elements even of prime cost, such as printing, leave alone the costs on journalistic and editorial staff. It is an accepted practice all the world over that these latter kind of costs are all met from advertisement revenue, and it is in this that the strength of the better quality newspaper often lies. If some newspaper wants to set out on a new course by not wanting to develop much of advertisement revenue or even by keeping advertisements of certain kinds out, it should ensure that it has a clientele which shares its approach to advertisement revenue and would therefore be ready to pay a higher price.

81. We would, however, not completely discountenance the possibility that the whole situation in respect of a certain market for newspapers may be such that, unless a minimum price in relation to material costs is insisted upon, existing competition may be eliminated and potential competition thwarted. Our support to the proposal that MRTP Act should apply to the newspaper industry, and that the circulation of newspapers in a particular area in a particular language should be taken as the basis for examining dominance or monopoly is specially meant to look after such possibilities. This would be an appropriate situation where action by the MRTP Commission would be justified and there are enough provisions even in the existing Act under which directions can be given which will ensure that the weaker competitors can be protected and helped to sustain themselves. We emphasise that we are not supporting the development of a monopoly Press where larger newspapers will have maximum freedom to destroy all the existing or potential competition. We however do not favour a general and strait jacket solution because we are afraid that this will merely create difficulties for the existing good quality newspapers, only because they have large circulations, and at the same time not necessarily help the sustenance or coming into existence of similarly good quality but smaller circulation papers. We should also make it clear that we are not convinced that the small is always beautiful any more than the large and that all small newspapers deserve to be protected from competition.

#### *Advertisement as a Source of Revenue*

82. The majority also point out that the advertisement revenue is shared very unequally among different types of newspapers, the large circulation English language dailies cornering the lion's share and the large circulation Indian language dailies another large

\*Chapter IX, para 156.

\*\*Chapter X, para 65.

chunk. Between them they account for almost 60 per cent of the total advertisement revenue earned by the Press.

83. They add that the percentage of space devoted to advertisement has been increasing in the last 20 years and that it is very high now, especially in the larger circulation papers which are also able to charge high advertisement rates. This in turn enables these papers to provide much more page-area to a newspaper buyer in terms of the price he pays.

84. While admitting that every newspaper has to rely on advertisement revenue for making both ends meet, the majority feel that "greater dependence on advertisement revenue exposes a newspaper to pressure from advertisers". \*\* Further, "it would be unfair to the reading public if the newspapers devote a large proportion of space to advertisements". \* "For the freedom of the Press to be effective, the present degree of dependence of newspapers on advertisements has to be lessened and the importance of circulation as a principal source of revenue must be enhanced".@

#### *News-to-Advertisement Ratio*

85. Our colleagues, therefore, state their conviction that, in the prevailing conditions of the Press in India, "the prescription of a price-page schedule with a news-to-advertisement ratio is absolutely essential for promoting fair competition among the existing units and for providing a fair chance of success to new-comers in the interest of diversification of the sources of dissemination of information". They make this recommendation while acknowledging that "those papers which are today attracting a disproportionately large amount of advertisement revenue are utilising it to a certain extent for improving their quality and in subsidising the selling price for the benefit of the readers".

86. They are uncertain about the impact of the proposed measure on the economics of publishing newspapers and therefore suggest the setting up of an expert committee to work out a price-page schedule after examining the relevant facts; but they still make a firm recommendation that the news-to-advertisement ratio should be fixed "at 60 : 40 for big newspapers, 50 : 50 for medium and 40 : 60 for small newspapers". They have also supported, if necessary, a constitutional amendment to make such a restriction on newspapers legally feasible.

87. This approach is bound to hurt large circulation newspapers. Thus, according to the ORG survey, total advertisements take up over 58% of space in the 'Very Big' English newspapers, over 44% in 'Big' ones and over 45% in 'Medium' ones (See Table I). The advertisements take up over 45% space in 'Very Big' Hindi newspapers, and over 47% in 'Big' ones. The proportion in Bengali is over 49% in 'Very Big' ones, in Gujarati it is about 45% in 'Very Big' and

about 44% in 'Big' ones. Similar is the case in Malayalam and Marathi. All these newspapers will suffer as a result of the proposed ratio restriction.

88. Whether other newspapers will benefit from such a restriction on the larger ones is doubtful. No data are given by the majority to support any such contention. They also accept that the economics of the newspaper industry needs a more detailed study than the Commission has been able to undertake, yet they have laid down news; advertisement ratios regardless of consequences.†

89. We are opposed to these recommendations, we do not believe that larger newspapers should be denied the advantages in terms of economies of scale and advertisement revenue which are bound to accrue to them. We do not share the assumption that, if advertisements are not permitted to be published in the large newspapers, these would automatically shift to others. We reject as untenable the position that dependence on advertisement revenue exposes a newspaper to pressures from advertisers. On the contrary, the larger papers with varied and multiple sources of advertisement revenue are far less amenable to pressures from any particular advertiser, including the Government.

#### *Advertisement Revenue and Quality of Papers*

90. The majority talk of the large circulation English dailies securing "a disproportionately" large chunk of advertisement revenue, without defining the term. The advertisement rates of a newspapers inevitably depend upon its circulation and the advertiser's calculation of the income class of its readership. Neither consideration can be called unfair, unless advertisements are to be treated as favours which are conferred or withheld on other considerations. At the most one can say that some of the advertisers are not adequately conscious of the advertisement potential of some of the Indian language dailies and papers that circulate more in the rural areas. But this problem cannot be solved by placing curbs on advertisement in a rough and ready fashion. To say that it is unfair to the reading public if a large proportion of space is devoted to advertisement is to assume that the advertisements do not serve any worthwhile public purpose, and also that the readers have no choice in respect of which newspapers to buy.

91. We contest all such assumptions. If the readers are unhappy over the space allotted to advertisement in a particular newspaper, they can shift to another. It is not as if all competing papers in a particular language or in a particular locality devote the same space to advertisement. Probably most newspapers would like to devote 50 or 60 per cent space to advertisements if they can obtain more revenue. But some of them cannot obtain so much from advertisement and therefore

\*\*Ibid. para 67.

\*Ibid. para 74.

@Ibid. para 77.

†While the Bhabatosh Dutta Committee on Newspaper Economics recommends a 50 : 50 ratio, our colleagues have proposed a 60 : 40 ratio for the larger papers. A substantial (five to four) minority in the Enquiry Committee on Small Newspapers (1965) had opposed the statutory ratio. For extracts from these reports, see Appendices 'A' and 'B' to our Minute.



utilise less space for it. The reader has the option to choose such papers if he dislikes so much space devoted to advertisement. What happens is that the newspapers which give more advertisement, can also afford to have more pages. They also appear to be able to make their paper more interesting. This is how the economics\* of the newspaper industry operates.

92. The attempt of most newspapers is to recover through the prices charged to readers the material costs as well as the printing costs for producing the newspaper. The advertisement revenue is mainly used for meeting other costs—news collection, editorial and other overheads. It is thus claimed that, with the rapidly increasing cost of materials, especially newsprint, more advertisement revenue is essential if the quality of the newspaper is to be maintained at a high level or further improved.

93. As it is, newspapers have had to raise their prices in order to meet increasing costs. If advertisement space and revenue are curbed, they will have to raise their prices steeply. We have little doubt that, in the present situation, to insist on a larger proportion of revenue coming from circulation, will greatly reduce their circulation. Data given in Chapter II paras 89-90 show how the recent increases in newspapers prices have led to a fall in their circulation. This suggests that a point of high elasticity of demand has been reached in respect of at least major and high price newspapers. Any insistence on changes which will force further price increases may be the end of high-quality papers.

94. The majority also assume that the reader's choice of a newspaper is significantly governed by the number of pages it offers. They approvingly quote a passage from the Report of the Enquiry Committee on Small Newspapers and the conclusion reached by a columnist in a newspaper to this effect. We doubt that the reader is oblivious to the contents of newspapers and is only bothered about their relative weight! By this logic, only the Hindu should sell in Madras, the Times of India in Bombay and so on.

95. Frankly, we are surprised that our colleagues should have proposed news-to-advertisement ratios without any reference to the present-day economics of newspaper publishing. We have little doubt that its implementation will make it extremely difficult for the larger newspapers to survive. A price-page-schedule, in our opinion, will have a similar effect on their fortunes. It needs to be emphasised that, as the economy is at present organised, advertisement revenue cannot be treated as an evil source of finance. So long as we have a largely free enterprise and market oriented economy, advertisement will remain an integral part of the system.

96. The fact that All India Radio and Doordarshan are increasingly promoting paid advertisements is a clear indication that even Government financed

media consider this source of revenue useful\*\* and necessary. Experience in other democracies suggests that the broadcasting media, and especially T.V., increasingly take up a larger share of the total national outlay on advertising. India is not likely to be an exception. AIR has recently decided to throw open its normal radio channels—in addition to Vividh Bharati—to advertisements. This may considerably reduce advertisements available to all newspapers whatever their size.

97. That apart, it has been claimed—and rightly—that certain kinds of advertisements are of considerable interest and importance to readers. Classified advertisements—including those relating to employment opportunities available or wanted—are of great interest to many readers. So are marriage advertisements. Many newspapers treat them as social service and some even provide concessional rates for them. Similarly, advertisements relating to entertainment programmes available in the locality are wanted by readers in many cases almost as much as news. One cannot therefore say that space devoted to such advertisements is unfair to the readers.

98. Advertisements which are meant to persuade readers either to buy a particular product or service, or to create in their minds a favourable image of an individual, a product or an organisation, may be said to be less useful but by no means harmful. They appear in all worthwhile newspapers all over the world, even in market oriented Communist countries like Hungary and Yugoslavia.

99. One method of looking at the problem would be to examine the revenue-cost situation of different newspapers and ascertain what percentage of space devoted to advertisement and at what rates is necessary to ensure the economic viability of a newspaper. But even this kind of analysis would abound in difficulties. Not only would the costs vary from time to time with rapid changes in the prices of materials or wages, but they would also vary from one paper to another depending on how much it depends on news gathering, a competent editorial staff, and various other aspects such as features, cartoons etc. The advertisement rate would be another important variable, depending on the circulation of the paper, and the income status of its readers. It is obvious that this is a complex matter, and simplistic solutions and rigid formulae are likely not only to be ineffective but also harmful.

100. It is generally accepted that the quality of the Indian newspapers leaves much to be desired. This is especially so of the Indian language newspapers and newspapers which are published outside metropolitan areas. Many of these newspapers would like to provide more and better material to readers provided they can afford the costs. But their

\*\*A.I.R.'s revenue from advertisements has increased from Rs. 296 lakhs in 1970-71 to Rs. 1140 lakhs in 1980-81 (11 months). (Chapter IX, para 45). The revenue of Doordarshan from Commercials has increased from Rs. 77 lakhs in 1976-77 to Rs. 6 crores in 1979-80 (*ibid*; para 50).

\*For some general analysis of this aspect, see *Business World*, June 8-21, 1981, pages 26-39.



this would mean that they would have to increase the number of pages from four, six or eight that many of them now provide to six, eight, ten or twelve. That would place an unbearable burden on their already weak finances.

101. Similarly, even the best known of our newspapers like *The Times of India*, the *Hindu*, *The Indian Express*, *The Statesman* or *The Hindustan Times* cannot be considered to be anywhere near the top class newspapers in developed countries either in the quantity of news that they provide or the quality of the information, feature articles and cartoons etc. that they contain. If they have to improve, they will require more pages rather than less. Even at the present increased prices of newsprint, there is a large gap between the cost of putting an extra page and the revenue obtained from an extra page of advertising by some of the quality papers. It is this difference that enables a newspaper to spend more on improved service to its readers.

102. It has to be noted that even with as much as 51 per cent of the space devoted to display advertisements and six per cent to classified advertisements, the large circulation newspapers have recently been forced to raise their prices to high levels as a result of the increase in the price of newsprint. There is no indication that there would be a let up in the future in the tendency for material prices as well as printing costs, etc. to rise. Any curbs which would force these newspapers to reduce the advertisement space that they are allotting now to it will most likely lead to forcing them to reduce the quality of their service and into serious economic difficulties.

103. It is also important to note that not infrequently the benefit to the reader varies in proportion to the advertisement revenue of the newspaper.\*

It has already been pointed out in the report that the return per paisa to a newspaper reader in terms of the page-area he gets is much higher if he buys a paper with larger circulation.\*\* A quick study made by us (see Table 2) further shows that the news and editorial space per paisa spent by the reader does not decline in the larger circulation newspapers though they devote more space to advertisement.

*The Hindustan Times* in New Delhi gives 52 column centimetres news space per paisa against 80 column centimetres of advertisement space. As against this a very small paper, *Tej*, which gives only six column cms. of advertisement space per paisa also gives only 45 column cms. of news space per paisa. Other large papers like *The Statesman*, *The Times of India* and the *Indian Express* also provide larger news space per paisa even though their advertise-

ment space is also larger. The only exceptional cases are those of *The National Herald* where the news space is 91 column cms. per paisa even though advertisement space is only 33 column cms. per paisa, *Qaumi Awaz* which gives 68 columns cms. per paisa of news space, even though the advertisement space per paisa is only six column cms., and *Patriot* which gives 82 column cms. per paisa of news space as against 35 column cms. of advertisement space.

104. These last examples merely prove that the economics of different newspapers can be significantly different. From this limited study, it is not possible to say whether all these newspapers are operating on sound economic and financial basis.\* What is indicated is basically that the reader is not being defrauded in terms of news and editorial space in the newspaper per paisa spent by him even if the advertisement space is also larger. In fact, he usually gets more news and editorial space per paisa spent by him in such larger advertisement space newspapers.

#### Pressure from Advertisers

105. Objection to advertisement is taken by various people on two other grounds. One is that greater dependence on advertisement revenue exposes a newspaper to pressure from advertisers. Assuming that same advertisers would try to put pressure on newspapers and this is as true of governmental and other public authorities as of private authorities—the extent to which the newspaper would succumb to such pressures would very much depend upon the degree to which a newspaper depends upon a particular advertiser for a significant part of its advertisement revenue. The likelihood of any large newspaper with many advertisements from a number of sources being pressurised is far less than that of a small paper whose sources of advertisement revenue are limited, and it therefore depends significantly upon a particular source.

106. Our analysis shows that the dependence on government sources of the smaller papers is far more than that of the larger papers; and this is bound to open them to considerable pressures from government authorities.\*\* Even local advertisers such as cinema owners may be able to pressurise small and local papers considerably. This cannot easily happen to the larger papers who can withstand the loss of these advertisements for long. In fact, the correspondence between Shri K. K. Birla and Shri B.G. Verghese brings out the point that not only the editor of the *Hindustan Times* took no notice of the pressure brought to bear on his paper by the Modis, a business group, regarding some news item of Court cases against them, but even the proprietors only suggested that the editor might take up such news in the right spirit and not possibly face allegations of carrying

\*It should also be noted that in the U.K., the national quality dailies earn far more from advertisement revenue as a proportion of total revenue than the popular and other dailies. This surely does not suggest that more advertisement revenue means a lower quality newspaper (Ref : Royal Commission on the Press : Final Report, July 1977, Page 32).

\*\*Chapter X, paras 74-75.

\*To what extent the *National Herald* and *Qaumi Awaz* satisfy such a criterion is doubtful. See *Sunday weekly*, 7th February, 1982, p. 40, and also *India Today*, Feb. 15, 1982, pp. 52-54.

\*\*See Tables 4 to 7 of this Minute.

on a campaign, even the proprietors did not tell the editor to adjust news items so as not to annoy actual and potential advertisers.

107. It should also not be overlooked that a newspaper cannot ignore the importance of its credibility among its actual and potential readers. Any impression that it is yielding to outside influence is likely to hurt it at its most sensitive point, viz. its circulation. As a recent study of the British media points out, "The board shape and nature of the press is ultimately determined by no one but its readers".\*

#### *Harmful Effects of Advertisements*

108. Another point that is made is that advertisements are not only somewhat vulgar but that they also are economically harmful. The alleged harm arises on two counts. One, that a significant cost is incurred on advertisement and finally this is recovered from the consumer of the product. While this is true, all one can say is that since advertisement for consumer products is considered an appropriate method of persuading consumers in a given economy—and this is so in India—the press cannot be expected to forego this source of revenue. If consumerism is to be discouraged, this has to be done by a radically different approach to the organisation of the economy. The Press Commission is hardly the appropriate body to go into this larger question. As regards the advertisement of harmful products such as cigarettes or liquor, if the Government passes general legislation banning all advertisements of such products, through all the media that would apply to the Press also, and one cannot have any quarrel with it.

109. It may also be suggested that a number of advertisements are misleading. They put forward fake claims and misguide the public. There is no effective remedy for such advertisements in any media at present. The Sachar Committee has suggested that this be treated as an unfair trade practice and be dealt with under the MRTP Act. We agree.

110. The argument of economic waste may also be made regarding a number of display advertisements which have little to do with information to the consumer regarding the product; such advertisements may be more to create a favourable impression in the minds of the readers regarding the advertiser, whether it is a Government authority, a business group or a particular producer. Many people think that such advertisements should be stopped as it involves considerable waste of resources and also, as only large advertisers like governmental authorities and big business groups indulge in this type of advertisement on a large scale, the possibility of their trying to abuse such advertisement expenditure is greater.

111. Again, the matter does not lie within the purview of the Press Commission. If it is decided that advertising which has no direct bearing on the business of a company should be banned, this can be done by appropriate amendments in the company and taxation legislation. As regards Government

authorities, there should be no difficulty in their accepting a self-denying ordinance not to indulge in this kind of self-advertisement through newspapers.

#### *The Constitutional position*

112. There are lions in the way of implementing the majority's recommendations in respect of price-page schedule and a statutory news-to-advertisement ratio. The majority have sought to overcome these difficulties by asserting that the Supreme Court decided the *Sakal Newspapers*' (3 SCR 1962) case incorrectly, and by subscribing to the sole dissenting judgement in the *Bennett Coleman* case. Indeed the relevant section of Chapter X, entitled "Press as Public Utility", leans heavily on the theories propounded in the dissenting judgement of Mr. Justice K. K. Mathew.

113. The Supreme Court, in its judgement in the *Sakal Case* has held :

"The right to propagate one's ideas is inherent in the conception of freedom of speech and expression. For the purpose of propagating his ideas every citizen has a right to publish them, to disseminate them and to circulate them. He is entitled to do so either by word of mouth or by writing. The right guaranteed thus extends subject to any law competent under Art. 19(2), not merely to the matter which he is entitled to circulate, but also to the volume of circulation. It cannot be gainsaid that the impugned order seeks to place a restraint on the latter aspect of the right by prescribing a price-page schedule. We may add that the fixation of a minimum price for the number of pages which a newspaper is entitled to publish is obviously not for ensuring a reasonable price to the buyers of newspapers but for expressly cutting down the volume of circulation of some newspapers by making the price so unattractively high for a class of its readers as is likely to deter it from purchasing such newspapers.

"The first decision of this Court in which this was recognised is *Romesh Thaper v. State of Madras*. There, this Court held that freedom of speech and expression includes freedom of propagation of ideas and that this freedom is ensured by the freedom of circulation...

"Though the prices of newspapers appear to be on low side, it is a fact that even so, many people find it difficult to pay that small price. This is what has been pointed out by the Press Commission in paragraph 52 of its report. According to it, the most common reason for people in not purchasing newspapers is the cost of the newspaper and the inability of the household to spare the necessary amount. This conclusion is based upon the evidence of a very large number of individuals and representatives of Associations. We would, therefore, be justified in relying upon it and holding that raising the price of a newspaper even by a small amount such as one p. In order that its present size be maintained would adversely affect its circulation.

"We would consider this matter in another way also. The advertisement revenue of a newspaper is proportionate to its circulation. Thus the higher the circulation of a newspaper the larger would be its advertisement revenue. So if a newspaper with a high circulation were to raise its price its circulation would go down and this in turn would bring down also the advertisement revenue. That would force the newspaper either to close down or to raise its price. Raising the price further would affect the circulation still more and thus a vicious cycle would set in which would ultimately end in the closure of the newspaper. If, on the other hand, the space for advertisement is reduced, the earnings of a newspaper would go down and it would either have to run at a loss or close down or raise its price.... When a law is intended to bring about this result, there would be a direct interference with the right of freedom of speech and expression guaranteed under Art. 19(1)(a)... The freedom of a newspaper to publish any number of pages or to circulate it to any number of persons is each an integral part of the freedom of speech and expression. A restraint placed upon either of them would be a direct infringement of the right of freedom of speech and expression. Perhaps an illustration would make the point clear. Let us suppose that the enactment had said that newspaper 'A' or newspaper 'B' (ignoring for the moment the objection to the illustration based upon Art. 14) shall not have more than a specified number of subscribers. Could such a law be valid in the face of the guarantee under Art. 19(1)(a)? The answer must unhesitatingly be no, because such a law would be recognised as directly impinging upon the freedom of expression which encompasses freedom of circulation and to restrain the citizen from propagating his views to any other beyond the limit or number prescribed by the statute. If this were so, the fact that the legislation achieves the same result by means of the schedule of rates makes no difference and the impact on the freedom would still be direct notwithstanding that it does not appear so on its face.

"It [Newspaper (Price and Page) Act 1960] seeks to achieve its object of enabling what are termed the smaller newspapers to secure larger circulation by provisions which without disguise are aimed at restricting the circulation of what are termed the larger papers with better financial strength. The impugned law far from being one which merely interferes with the right of freedom of speech incidentally, does so directly though it seeks to achieve the end by purporting to regulate the business aspect of a newspaper. Such a course is not permissible.

"Finally, it was said that one of its objects is to give some kind of protection to small or newly started newspapers and, therefore, the Act is good. Such an object may be desirable but for attaining it the State cannot make inroads on the right of other newspapers which Art. 19(1)(a) guarantees to them. There may be other ways of helping them

and it is for the State to search for them but the one they have chosen falls foul of the Constitution."

114. Most of these arguments have been endorsed by the Supreme Court in its majority judgement in the *Bennett Coleman* (2 SCR 1973) case and we would not wish to repeat them here. Suffice it to say that the Court has held, after quoting the *Sakal* case at length that newsprint control could not be turned into an instrument of newspaper control, and that it could not be used for promoting small newspapers, reducing alleged monopoly, making unequal newspapers equal by giving the weaker papers a fairer opportunity, and promoting a more competitive marketplace of ideas.

115. But there is one more point. In his dissenting judgement in the *Bennett Coleman* case, Mr. Justice K. K. Mathew too did not seem to be saying that the *Sakal* case was wrongly decided. He wrote:

"In *Sakal Papers (P) Ltd. and others v. Union of India*, this court was concerned with the validity of the Newspaper (Price and Page) Act, 1956, and Daily Newspaper (Price and Page) Order, 1960. *The whole subject fell directly under Article 19(1)(a)*. It was not a case where the infringement of the freedom of speech was indirect. The legislation in that case *directly* restricted circulation of newspapers. The *direct* effect of the legislation, in other words, *was to abridge the freedom of speech by curtailing circulation*. The learned judges, after referring to the *Express Newspaper* (12 SCR 1959) case said that the impugned law, far from being one which merely interfered with the right of freedom of speech incidentally, did so directly." (Emphasis ours)

116. In support of their recommendations regarding price-page schedule and a news-to-advertisement ratio, the majority members advance a theory which states that if the pith and substance of a proposed piece of legislation is related to reasonable restrictions on the business of running a newspaper in the interest of general public permitted under Article 19(6) of the Constitution the mere fact that those restrictions leave an impact upon the right of freedom of speech conferred under Article 19(1)(a) is quite immaterial for adjudging the validity of the law. They state:

"In such a case, the solution to be thought of is to decide what exactly is the pith and substance of the legislation. In other words, the appropriate mode for resolving the conflict is to look at true nature and character of the legislation and decide whether it is really a restriction upon the freedom to carry on the business or an indirect attempt to suppress the freedom of expression. The test is the pith and substance of the matter and not the indirect effect of the legislation."

117. The proposed legislation, then, is being supported under Article 19(6) and the majority seems to be concluding that it does not fall *directly* under article 19(1)(a). Also the majority have advanced the theory that a bridgement of speech (meaning thereby the abridgement of volume of speech, or the abridgement of the size of newspapers, does not amount to an abridgement of the freedom of speech, which is related to content and not to volume. But this view runs contrary not only to the majority judgement in the *Sakal* and *Bennett Coleman* cases, but also to Mr. Justice Mathew's views on the *Sakal* case as stated in his dissenting judgement in the *Bennett Coleman* case. Leaving the legal controversy raised by the majority in the Report severely alone, it is pertinent to observe that under the law as it has been declared by the Supreme Court a price page schedule will be legally invalid under the Constitution. Moreover, in our opinion, it is not for the Press Commission to pronounce upon the correctness or otherwise of Supreme Court judgements, which is the law of the land.

#### *Tax on advertisement as a disincentive*

118. This is not to say that there is no case for some limit on the use of advertisement by newspapers. We agree that some curb on the use of a scarce resource like newsprint for advertisement would be appropriate. But, in keeping with our overall approach that no straitjacket solutions should be adopted, we would rather suggest a more flexible way of discouraging excessive advertisements than what our colleagues have done. We shall not lay down a fixed proportion of space which should be used by a newspaper for advertisements. We would rather recommend an approach by which a disincentive in the form of a progressive tax on the use of newspaper space for advertisement is levied so that each newspaper will be able to compare the worth-whileness of devoting more space to advertisement in the light of the tax which will have to be paid.

119. We would place the exemption limit at 50 per cent of newspaper space exclusive of classified advertisements which, all agree, are of much service to the readers and to the community. They provide hard and useful information. We recommend a progressive tax on advertisements beyond 50 per cent of the total newspaper space, exclusive of classified advertisements, increasing the progression in such a manner that the marginal advertisement revenue becomes negative beyond 75 per cent. We think such a flexible approach of permitting the newspaper to experiment would be better than a fixed general prohibition. We also think that it is unfair to the reader to make a distinction in this respect between a small, medium and large paper. Our colleagues' suggestion of permitting as much as 60 per cent of space for advertisement by small papers while conceding only 40 per cent to a large papers does not commend itself to us. For administrative convenience, however, small papers with circulation below 25,000 should be ex-

empted from the tax on advertisement. A possible schedule of such a tax is given below :

Per cent of space devoted to advertisements	Tax as per cent of advertisement revenue
Upto 50% . . . . .	Nil
Between 50 & 60% . . . . .	35%
Between 60 & 65% . . . . .	55%
Between 65 & 70% . . . . .	75%
Between 70 & 75% . . . . .	100%
Between 75 & 80% . . . . .	110%
Between 80 & 90% . . . . .	200%
Above 90% . . . . .	300%

120. In calculating the space devoted to advertisement, classified advertisements which satisfy prescribed criteria regarding the type used, size and purpose should be exempted. It may be said that, at present classified advertisements are a major source of revenue only to the larger circulation papers and play only a minor role if any in providing revenues to the small and medium papers (see Tables 2 and 3). This is true. But we see no reason why regional language papers in not only cities but even in towns should not, with proper effort, be able to build up classified advertisements as an important source of revenue. The potential demand for such information as classified advertisements provide is bound to exist even in the other cities and towns. It only requires proper effort\* to bring it out and develop this as an important source of revenue as well as community service.

121. The amount which a company can spend on advertisement is limited, and the economic returns to advertising expenditure decline after a certain stage. The proposal is, therefore, likely to bring about a change in the quantity and size of newspaper advertisements. The newspapers are bound to raise their advertisement rates, and especially make them stiff in respect of larger advertisements, covering quarter page, half page or full page. This may help to reduce the total space devoted to advertisement.

122. Another possible objection is that the tax would be complicated to administer in that a record of the distribution of space for each issue of a newspaper would have to be kept. This cannot be considered to be a serious objection. Far more complicated records are kept, presented and scrutinised in respect of various taxes.

123. The question of the use of foreign exchange required for the import of newsprint has often been raised in this connection. It is pointed out in the

\*This will be supported by the rapid increase in classified advertisements which some of the larger newspapers have been able to achieve in a short time. The Delhi edition of the Times of India is a good example. It appears that even in the U.K., not only the national quality papers, but also the provincial papers, have been able to obtain a significant increase in classified advertisements. See Royal Commission on the Press, Final Report, 1977, pp. 34, 40-41, Appendices, p. 134.

report that valuable foreign exchange is being spent and that a disproportionate proportion of a scarce commodity bought with the use of foreign exchange is used by a small number of papers. But in all such discussions, the fact is overlooked that those papers serve a very large number of readers; and that is why they take up such a large proportion of newsprint.

#### *Why Not Free Import ?*

124. The import bill on account of newsprint, even though it has increased considerably in recent years, cannot still be considered to be a major drain on the country's foreign exchange resources. Even now it does not constitute more than two per cent of the total import bill of the country. When considering how much the country should spend on the import of newsprint, it needs to be kept in view that the newspapers are the major media through which the largest body of citizens is kept informed on public affairs. This communication of information from various angles is of great utility in any country. It is of special importance in a democracy where the common body of citizens is the final arbiter of events. We have to educate our masters and obviously the newspaper is the most important medium for imparting such education.

125. Broadcasting is developing rapidly in India and it is also playing a major role in the task of educating citizens. It needs, however, to be kept in mind that, with State ownership and management of broadcasting media, the latter cannot be the most effective media either for covering various kinds of news or for the presentation of alternative views including unorthodox ones and those critical of Government. The newspapers have therefore to be relied upon for fulfilling this role. The major handicap in the successful functioning of our democracy upto now has been the illiteracy of large numbers of our people. It is to be hoped that, with the emphasis on the spread of primary education as well as adult education, this difficulty will be increasingly overcome. As this happens, it would be necessary for an increasingly larger number of people to read newspapers and the circulation of all newspapers especially in Indian languages will have to increase substantially.

126. All over the world, the experience has been that the spread of broadcasting, and especially of TV, reduces the urge to read newspapers. If the production of newspapers is made difficult through various handicaps and the prices of newspapers have to increase, the situation may aggravate. This would surely not help the healthy growth of our democracy. The question of the liberal import of newsprint has to be viewed in this context.

127. In this view, there is no reason why the newsprint import should not be put under Open General Licence. It appears unlikely that this would lead to a large increase in imports in the near future. It may at best mean a slow but steady increase. In fact, the escalation in world prices of newsprint has already made the position of Indian newspapers

difficult; they are afraid of facing an elastic readership demand, and they are unlikely to import much more and increase the number of pages, even if the import is freed of all restrictions.

128. Some schemes for newsprint production in the country are already licensed. To the extent that these materialise, the import bill will come down. This process could be further helped by clearly laying down that newsprint will not be used for publications other than newspapers.

129. A major advantage of this approach is that it will help eliminate the continuous wrangling between the Press and the Government. It will also discourage false claims in respect of circulation figures. To the best of our knowledge the Government has not used newsprint allocations to put pressure on newspapers. But a Government in future may, if it is so disposed. The possibility will be greatly reduced if newsprint is put on OGL. It would also eliminate the difficulties that many smaller papers appear to experience in ensuring that their quotas are properly decided.

130. Such a policy will also dispose of the problem of black-marketing of newsprint. It has often been alleged that not only a large number of small but also some medium and large newspapers indulge in this activity. In the absence of evidence, we cannot say how serious the problems has been. But the problem has existed and can be solved if our proposal is accepted.

#### *Import duty not desirable*

131. We should also mention in this context our total opposition to any import duty on newsprint. As already mentioned earlier, in a growing democracy like ours, the most effective medium for informing the common citizen about the developments in the country and abroad, and on the major issues about public policy as they involve his exercise of citizenship rights, is bound to be the daily newspaper. Anything that would impede or inhibit the production and its circulation among the largest possible body of citizens would be to create an obstacle in the way of this essential facility. We therefore think that the recent imposition by Government of an import duty on newsprint is an undesirable measure. In our situation, a duty on newsprint is a tax on knowledge and information and should invite criticism similar to a tax on school books or other academic material. Surely the amount which the Government obtains from the proceeds of this import duty is nothing in comparison with the benefits that cheaper newspapers would confer on the education of our citizens. We would therefore urge the Government to remove the import duty and take a firm decision not to impose it again. We are glad to note that this view of ours is shared by the present Minister of Information & Broadcasting.

132. It is possible that when newsprint begins to be produced in India on a larger scale than now, there may still continue to be a cost difference as

well as a quality difference between the indigenous product and the imported product. In such a case, we would recommend the grant of subsidy by Government for encouraging the use of the indigenous product rather than an import duty to serve the same purpose. If the Government insists on raising the price of newsprint through taxation of one kind or the other, an inference may arise that the Government would prefer that the circulation of newspapers should be curbed and that the common body of citizens should not find it easy to have this facility at the cheapest possible price. Surely the Government will not like to give such an impression.

#### *Remove Channelisation*

133. That is also the reason why we also recommend that the channelisation of newsprint imports through the State Trading Corporation should be removed. If a co-operative of the users can be formed, so much the better. If that is, however, found difficult, each major user of newsprint should be permitted to have the facility of importing newsprint on his own or through the State Trading Corporation, whichever course he prefers. The S.T.C.'s claim that they have been able to attain major economies as a result of channelisation remains unproved. On the other hand, practically all major users expressed unhappiness about S.T.C.'s handling of imports, and especially the inefficiency regarding the schedule of supplies so that users are put to much hardship—either because they have too little in stock or too much. The users should, therefore, be freed from this compulsion. The State Trading Corporation should of course continue to import newsprint for the benefit of the small and medium users of newsprint. This will also provide a check on the import prices so as to prevent misuse of foreign exchange. The small and medium papers, as the majority also agrees, should be free to join up with a large importer for meeting their import requirements if they consider that course to be better.

#### *Liberal Policy re : Import of Machinery*

134. We would also strongly urge a far more liberal policy regarding the import of printing machinery for the Press. Technology in this area is rapidly improving and the Indian newspaper industry, by and large, is lagging far behind others. With vast masses of our population still to be reached by newspapers, it is obviously necessary to encourage the rapid expansion of the Press by all possible means. The use of the best technology available in this area should, therefore, be facilitated.

135. With new methods of photo-composing and printing, a small scale unit may be able to bring out a local newspaper at a comparatively cheaper cost. Thus the growth of local newspapers may be facilitated by encouraging the use of new technology in this sphere.

136. Modern technology also enables a newspaper to bring out facsimile editions from a number of centres. The Hindu does. This can promote

the development of truly national and all-State newspapers. We need the development not only of local papers which can cater to local needs but also All-India and all-State papers which will help the process of national integration. It is, therefore, necessary on both these counts that modern technology is encouraged in the printing industry.

137. We are not in a position to say to what extent we should aim at self-sufficiency in the short-term in printing machinery. We would, however, like to emphasise two points. First the proper development of the Indian Press requires it to be able to use the best technology available in the world without undue time gaps. Secondly, if imports are unavoidable in respect of certain types of machinery, we would recommend that such imports should be freely permitted to those who are interested in those types of machinery and no discrimination as among different newspapers should be practised.

#### *A Liberal Economic Approach*

138. To conclude this section, our approach, in contrast with that of our colleagues, to the main problems relating to the economic position as well as the monopoly aspect of the newspaper industry is that we would like to be very cautious in suggesting changes both because this is a very sensitive industry and also because its independence and growth are vital for the functioning of our still young democratic system. We would not restrict a major source of revenue like advertising, and consider it improper to lay down rigid formulae. At the same time, we realise that it may be necessary to restrict the use of newsprint for an increasing proportion of space being devoted to advertisements. We, therefore, have suggested the imposition of a progressive tax on advertisement revenue, after exempting all classified advertisements, and display advertisements up to 50 per cent of the total newspaper space. We have also suggested that in respect of import of newsprint and machinery, a liberal policy should be adopted, keeping in view the vital importance of this industry and the necessity not to give cause for any suspicion of discrimination.

139. We do not support the proposals for fixing a maximum number of pages for a newspaper, a price page schedule or a news-to-advertisement ratio. We also would not recommend delinking of newspaper business from other types of business on the lines recommended by our colleagues. This does not mean that we do not want to ensure fair competition in the newspaper world. We think it necessary that a reasonable degree of competition in the newspaper industry be maintained. This is necessary both to ensure efficiency of the newspapers and a minimum of choice for the readers.

140. At the same time, we cannot ignore certain facts. The newspapers in India are still in the embryo as compared to these in the developed countries. They have a far smaller reach as yet as compared to what is necessary in a democracy. With all other media being operated as a government



monopoly, the importance of ensuring that the Press develops on an efficient and economic footing cannot be over-emphasised. The economies of scale in modern printing as well as news collection and dissemination cannot be ignored if better newspapers are to be produced and made available to the readers at the lowest possible price. Nor can the fact that large newspaper organisations are in a better position to withstand the pressures from advertisers as well as government authorities.\*

141. In view of all this, we are convinced that at this stage all that is necessary is to ensure that the MRTP Act is fully applied to the newspaper industry. We have already indicated that in defining the dominant or monopolistic character of a newspaper, its language and its circulation area should be taken into account. Wherever such a situation is found to have arisen, the concerned newspaper undertakings will be necessarily registered under Section 20(b) of the MRTP Act unless it is already registered under Section 20(a) of the Act. In all such cases, their expansion, amalgamation with or takeover of other undertakings, or establishment of new undertakings by them would all be subject to approval under the Act. It would also be possible under Section 27 of the Act to have enquiries made as to whether separation of the newspaper undertaking from other business undertakings interconnected with it would be in public interest.

142. It is true that the MRTP Act has many inadequacies. Some of these are attempted to be removed by the recommendations of the Sachar Committee. We hope that the Government is taking action to make the MRTP Act more effective in the light of that Report. It should also be possible to use the provisions regarding monopolistic and restrictive trade practices—as well as the new category of unfair trade practices—to safeguard the interests of readers and of smaller papers.

143. Our emphasis on the use of the MRTP Act may be criticised on the ground that we are putting too much faith in one instrument, an instrument, it may be said, which has up to now proved not to be very effective. Our answer is that the ineffectiveness of the MRTP Act and the MRTP Commission up to now has largely been due to the Government's ambivalence. Very little use has been made of the provisions in Chapters three and four of the MRTP Act for ensuring effective competition, reducing undue concentration and preventing monopolistic practices. The fact that, even though the Sachar Committee reported on the MRTP Act in September 1978, the Government has not still taken any action to improve the MRTP Act so as to make it more effective is also a telling commentary on the main reason why the MRTP legislation has up to now been ineffective. It has also been adequately proved in practice that, where an autonomous body like the MRTP Commission is authorised to take

*suo motu* action as in the case of restrictive trade practices, much better results have been achieved. Therefore, if, as suggested by the Sachar Committee, the MRTP Commission is authorised to undertake *suo motu* action in respect of all trade practices, it should be possible for situations of unfair competition and monopolistic practices to be properly enquired into and dealt with. It should also be possible for the Government, including the Press Registrar, to ensure that appropriate cases under Section 27 and other provisions of Chapter three of the MRTP Act are referred to the MRTP Commission. It is possible that the investigating machinery as well as the membership of the Commission may have to be expanded if such use is to be made of the MRTP Act. There is no reason why this should be difficult.

144. At the same time we would suggest two major modifications in the application of the MRTP Act to the newspaper industry. First, the Press Registrar should be enabled to become a party to press cases coming up under the MRTP Act. With the increasing information that we hope will flow to this office, and with the higher status that we envisage for the Press Registrar, he should be in a position to render valuable assistance to the appropriate authorities in respect of enquiries under the MRTP Act.

145. Secondly, no final action under the MRTP Act should be taken unless the MRTP Commission has been brought into the picture, a public enquiry is held by it, and a report submitted to the Government. At the minimum, such procedure would ensure that there would be little suspicion that any discrimination is being practised by the Government against particular newspapers for extraneous considerations.

146. We, however, are firmly opposed to giving Government undue powers which may be used for threatening the newspapers which they do not like or which may be used as a kind of Damocles' sword to create nervousness among newspapers. Nor do we want to support any idea which is likely to create undue difficulties in the smooth functioning of the good quality newspapers. For a country of our magnitude, the newspaper industry is very much underdeveloped at present and its further growth, quantitatively and qualitatively, needs encouragement. We would not like to support any steps which, however laudable their objects might be, are likely to create obstacles in efficient functioning and further development of the good quality newspapers in the country. This in our view must be kept as the primary aim in the policy to be advocated by the Press Commission.

#### *Arbitrary use of controls*

147. One reason why we are very much against arming Government with various controlling instruments in respect of the newspaper industry is that the possibility of their partisan and arbitrary use is much greater in this sensitive industry. In this

\*cf. "Only very rich, very powerful corporate institutions like (the Washington Post, the CBS and the New York Times) had the impact, the reach and above all the resources to challenge the President of the United States". David Halberstam: *The Powers That Be* (Dell, New York, 1979). p. 994.



context, we are concerned not only with the present Government but also with governments of the future. It has been observed, even in a country like the United States, that many ways are open to the executive wing of Government to create problems for the media. It is, therefore, found even there that the executives of the media normally tend not to do anything that might offend the Government.\* This would be far more so in the Indian context. We would, therefore, suggest an approach where either there is no control or, where the control is unavoidable, it should be exercised through clearly laid down guidelines with a legal appeal permitted ; or where the control would be exercised after a public inquiry conducted by an independent body like the MRTP Commission.

148. Our colleagues have recommended that the present practice of permitting newsprint to be used by all periodicals except specified categories should be modified so as to exclude cinema and sex magazines and further that the Press Registrar should determine whether a publication is a sex magazine or not\*\*. The data given in Appendix X.25 show that this is unlikely to make a significant dent on the use of newsprint in the country. But more than this, our objection is to permitting the Press Registrar, who would work as an officer subordinate to a Minister, to decide which publications are to be declared as belonging to these categories and, therefore, denied newsprint. We object to this kind of power in principle. As for cinema journals, while some of us may have no liking for them, we see no reason why we should object to those who are interested in such news and make those journals more expensive. This is taking too puritanical a view. Similarly, what is to be dubbed as a sex magazine is not easy to define. It is well known that even magazines attempting to propagate sex education, including education on family planning methods, have been objected to by many. We would not, therefore, like to give such powers to the Press Registrar. Of course, as far as the use of newsprint is concerned, we have recommended that free import should be permitted. If the use of such cheap raw material is to be denied to anyone, the proper approach would be to ban the use of newsprint for any periodical which is priced high, say, at Rs. 5 per issue or more. That may be a better way of denying a cheap raw material to those who can afford to pay more.

#### *Right of Reply*

149. One argument, which is crucial to the case of the majority members, is this : Freedom of expression does not mean that only those who own

\*"The government was increasingly sensitive to the power of broadcasting, and this sensitivity was matched by a parallel awareness within the networks of just how many legal ways the Government had to lean on the networks. All this produced a desire among networks executives not to do anything that might offend either the government or the Madison Avenue." David Halberstam; *The Powers that Be*, Dell, New York, 1979, page 197.

\*\*Ch. IX, paras 138-139.

the forum and the platform have the freedom to say what they like, without let or hindrance; it also means that those who do not own the forum or platform shall also have the opportunity of having their say. Although the forum is privately owned, and has to earn a profit for its upkeep, it should be accessible to society including those who are hostile to the forum-owners.

150. It is a noble sentiment. But none of the several hundred witnesses the Commission has examined, none of the scores of memoranda we were presented with, has told us of those very worthwhile ideologies or seminal ideas which failed to emerge and gain public attention because newspapers refused to publish them. All newspapers worth their salt have a certain policy-emphasis in their editorial pages ; but it cannot be said that even our major right of the centre dailies or weeklies have wilfully prevented the Naxalite or the CPI (Marxist), or the extreme rightist point of view from emerging in their papers. If this were not so, people would be knowing about such ideas only from certain obscure weeklies, or from underground literature. This is not so. Of course, a paper owned by big business would not be plugging the Marxist line day after day, but that is not what is expected of it. What is expected is that the presence of such ideas should be reflected in its columns. What we should further seek to ensure is that there should be a plurality of forms, that people of as diverse persuasions and ideological beliefs as possible should be enabled to own forums if they so desire and that no new entrant should suffer an insurmountable handicap. But no newspaper can be compelled to launch a campaign in favour of idea which it does not believe in, and which its readers may not be prepared to buy. An editor who is as neutral as a traffic policeman in regulating the flow of material which comes to him would be an imbecile. When the majority-members plead for a regime in which everything worth saying shall be entitled to be said by everybody in newspapers whose prices, pages, advertisement ratios, shall also be pre-determined, they are conjuring up a fantasy.

151. As for the right of reply which figures in the report†, our view is that most newspapers provide for its exercise on reasonable basis. In our view, such a right arises only in respect of references made to an individual or an organisation where the latter may feel it is factually inaccurate or is deliberately distorted. Individuals or groups who hold points of view other than those of the newspaper cannot demand the right of reply as a matter of right except to a limited extent in the reader's column. It may be useful for newspapers themselves to make adequate space available for readers' views in order to create a sense of participation. But again, we would like to leave such matters to the good sense of editors. We would not, therefore, support the proposal to enforce this right through the Press Council. It is not impossible that such a provision would become an open invitation to a large number of

†Ch. X, paras 118-121.

persons who are always eager to see themselves in print even though the editors of newspapers may find that what they write is not worth publishing. Moreover, in a competition for space, which is often scarce, even between scripts which deserve to be published, a discretion has to be exercised in preferring the one to the other, having regard to a multitude of circumstances peculiar to a particular newspaper at a particular point of time. The Press Council can hardly be expected to be equipped to decide the issue in such a situation. In our opinion, these matters should best be left to the judgement of the editor. Besides, we do not think the Press Council would be an appropriate body to be entrusted with such work, especially in view of the possibility that it may be flooded with such complaints.

### SUMMING UP

152. To put it in a nutshell, the aim of our recommendations is to ensure the qualitative and quantitative growth of the Press in India. We need more and better newspapers, especially in Indian languages, and catering to the needs of various hitherto neglected sections, such as those in the rural areas and among the poorer sections of our people. It is also necessary to ensure that a far larger number of citizens are reached by newspapers than happens to be the case now. This also means that the newspapers should be enabled to reduce their prices so as to make it possible for the largest possible number to buy them. Policies which go against these ends on grounds which are vague and in the nature of ideological prejudices not supported by reasons should be firmly resisted.

153. In our opinion the report has prescribed multiple penalties and deterrents. Steeply escalating import duties on newsprint consumed beyond a fixed page-level should be restrictive enough. Newspapers will increase their page levels to accommodate more advertisement only if they find the penal duties bearable. The duties would be an indirect tax on advertisement. Not content with this, the majority goes on to recommend an arbitrary news-to-advertisement ratio. There would then be two options: reducing editorial inputs which make for excellence or increasing the price. But not content with a news-to-advertisement ratio, the majority wants a price-page schedule which would compel newspapers to increase prices in proportion to their pages. An increase in price would be more of the same thing. It would reduce circulations, and hence advertisement rates and revenue. One wonders why a whole armoury of weapons, each of them deadly enough, is being recommended against the best of our newspapers. If all of them are triggered off together, our Press Commission may well come to be known as the Press Annihilation Commission.

154. With all our major papers condemned to be statutorily sick, who would want to own or launch newspapers, and work with zest for their development? And yet, not content with hobbling and hamstringing the economy of newspapers, our colleagues go on to enjoin (among other things) that no one having business interest elsewhere will have more

than 10 per cent ownership in newspapers. An industry which will be turned sick is to be delinked from all resources of capital, with the consequence that no attempt at resuscitation will succeed. We cannot support such a prescription.

### PART III

#### *Government-Press Relations*

A major lacuna in the report is that it does not provide a comprehensive overview of Government-Press relations as they have evolved since the First Press Commission reported in 1954.

2. This is not a matter of mere academic interest for us; we feel that the failure to analyse this relationship has vitiated the conclusions of the Commission. If this relationship is not analysed, it would not be possible to do justice to our terms of reference.

3. In the Report, there is no reference to the Internal Emergency (1975-77) and the trauma of censorship which the Press in India experienced for 21 months. There is a Section on Pre-censorship in the Commission's Report. The relations between the Government and the Press during the Emergency has a lesson to teach. The best use of history can be made not by forgetting what is distasteful but by learning the lessons which it has to teach.

4. Let us begin at the beginning. In the very nature of things, conflict between the Government and the Press may easily arise in any democracy and, within limits, there is nothing alarming in it. Mutual criticism is useful, healthy and beneficial to both the Press and the Government in the performance of their respective roles. Soon after Independence, a certain tension started emerging in the relationship between the Government and the Press in India. The attitude of some stalwarts who had often denounced the press-laws framed by the British as obnoxious underwent a change after 1947, and their enthusiasm for the Press waned, because the parallax changed. It is significant that, soon after the enactment of our Constitution, the Home Minister, Shri C. Rajagopalachari, found it necessary to pilot the Press (Prevention of Objectionable Matters) Act, 1951 in Parliament. The usual noises about its being a black Act were then made, but in retrospect, no one would say that our founding fathers had authoritarian designs; even unconscious ones. However, the problems of administering a vast and complex country like India which had little experience of handling the apparatus of a nation-state had a sobering effect on them. Some schizophrenia was inherent in the situation; hence some of the members of the First Press Commission thought it fit to write a note of dissent about the desirability of the Press (Objectionable Matter) Act, and the first amendment to the Constitution. The Act lapsed a few years later, and no attempt was made to legislate anything similar until 1976.

5. Relations between the Government and the Press were more or less smooth in the halcyon decade of the fifties. The leaders at the top were Olympians, and although they sometimes snubbed the Press with charming petulance, their credentials as liberal democrats were never in question. The Press adored them, as did the people. Once in a while the leaders would wonder if the Press in India was not taking the monopoly-road which it had taken in the West, or they would question what function a managing editor could have in a newspaper, or they would be irritated by the attempts of upstart tycoons to boost their own image and project their own egotistical views through the columns of their newspapers. What have these people done to enjoy such a high profile except owning newspapers, they would sometimes ask. Circulations were low, and much significant activity took place without newspapers carrying to scrutinise it. Things happened without being chronicled. A few of the weeklies specialised in scandal-busting, and were read avidly. Even if they presented our politicians as gnomes, they performed a useful function, because the readers came to the conclusion that they were only human.

6. Shri Morarji Desai with his puritanical approach would sometimes deny State Government advertisements to a newspaper because it was hostile to prohibition. His action would be disapproved in many circles, but one is not sure how much the people really cared, even the journalists. Several leaders in the middle or lower echelons would expect that neighbourhood newspapers would promote their factional causes or interests, and the papers would be too happy to oblige. Sometimes the papers would be penalised, or denied favours, but there would be no row, because their circulations were small. The country was being governed through a consensus, and since newspapers were a part of it, there was no sharp cleavage.

7. The First Press Commission had recommended that a Registrar of Newspapers in India be appointed to collate information and present an annual report. The office was promptly set up, and for the first time, the number and circulation of newspapers in the country began to be entered in a register. Prior to this, even the District Magistrate might have had no exact information about the papers being published in his area. The Commission had also recommended a price-page schedule and a news-to-advertisement ratio, and the Government, unhappy at the lack of growth of India language newspapers, genuinely believed that unfair competition offered by high-priced, low-priced metropolitan English newspapers was coming in the way. A Price-page Act was therefore promptly passed, but the price-page order came only in 1960. On being challenged, it was set aside by the Supreme Court, and there were no hard feelings.

8. After the Chinese incursion into Indian territory, which came into the open in mid-1959, the Indian Press for the first time became bitterly critical of the Himalayan policy of the Government.

V.K. Krishna Menon became a *bete noire* and Panch Sheel evaporated into thin air. Jawaharlal Nehru, liberal to the core, never resented the bitterness which the press was exhibiting towards his policy; because he himself had suffered a great disappointment. The election in Bombay in which Krishna Menon was ranged against Acharya Kripalani became a focus of controversy for the Press, and it foreshadowed many later conflicts. The Government-Press relations in the last years of Nehru's life were perhaps illustrative of the lack of mutual appreciation and understanding which were to emerge more prominently later.

9. The 'sixties had a different texture. It was a decade of instability and turmoil, when the torch was being handed over into the unsteady hands of a new generation. Selig Harrison, calling it the Dangerous Decade, did not give India more than ten years. Editorial columns were full of despair and homilies, but the offensive edge of 1959-64 was gone, because the nation was delicately poised on a cliff. Lal Bahadur Shastri was criticised for being a 'prisoner of indecision' in the earlier half of his prime-ministerial tenure, but the nation rallied round him magnificently in the latter half. When Mrs. Indira Gandhi was elected Prime Minister in 1966, she was acclaimed, because she was modern-minded, and beyond parochialism or obscurantist fads. She began with much sympathy, although newspapers would often speak of her 'kitchen cabinet'. The Press wrote what it liked, and there was no counter-hostility. Newspapers in Bengali, Malayalam and Tamil began to acquire respectable circulations, and in all these States Congress lost the elections in 1967. It lost power in several other States, and under the dispensation of SVD ministries, politics became an amoral game about which sane comment, and the application of logical, normative yardsticks became increasingly difficult. The deeper causes were analysed only later, but that would be hindsight, not journalism. During this decade of turmoil, the Press Council Act was enacted in 1965.

10. The political crisis caused by the great split in the Congress party in 1969 was a climatic event, and it started a trail which has affected the Press like nothing else before. The major newspapers, steeped in Westminster norms and in the liberal traditions of the fifties, did not altogether share the enthusiasm which the split had generated amongst the young and the Left inclined intelligentsia, and a cleavage developed between the Government and the Press as also between large sections of citizenry and the newspapers. Just as the papers had no yardstick to measure the SVD imbroglios, they had none to assess the processes and techniques which became the stock-in-trade of some political parties in the early seventies. They shared a sense of anxiety with the people, and hoped that everything would turn out right in the end; but many felt concerned about the value world in which these events were taking place.

11. In 1971 the Congress party led by Mrs. Gandhi won a massive mandate in the general election, and it could be claimed with some plausibility that opinion

in the newspapers did not properly reflect public opinion. There was nothing extraordinary about it, because such divergences occur in democracies. But influential circles in the ruling party thought that newspapers were hostile because they were being dominated by the vested interests and had little *rapprochement* with the aspirations of the people. They began to hark back nostalgically to the report of the First Press Commission which had recommended a scheme for delinking newspapers from their owners, and for the diffusion of the divested shares amongst the employees of the newspapers. The draft of a bill seeking to amend the Companies Act for this purpose was circulated in 1971. The reaction it aroused amongst the big newspapers was bitter and furious. But the Government itself was not particularly serious. As a former Union Minister of State in charge of Company Affairs admitted in his evidence before the Press Commission, the bill was not pursued because it was feared that if shares were diffused among employees, some of the newspapers would be controlled by CPI (Marxist) Unions, and others by those of the Jana Sangh persuasion. Another consideration, the former Minister confessed, was that it was far easier for the Government to deal with identifiable owners than with diffused worker-proprietors. It was perhaps because of this difficulty that a bill for the appointment of public trustees in major newspapers was drafted in 1974. This too was not taken up.

12. Attempts to control the prices and pages of newspapers were revived, and the price-page schedule, struck down by the Supreme Court was sought to be introduced in modified form. The newsprint policy for 1972-73 was so framed that no daily newspaper was to be allowed newsprint for more than ten pages. This too was struck down in the *Bennett Coleman* case because the Supreme Court held that it was an attempt at newspaper control. The Government also enacted a Newspaper (Price Control) Act in 1972 to enable it to fix the maximum prices which may be charged by newspapers. The Act was never implemented, and in course of time lapsed.

13. Although an atmosphere of confrontation prevailed in Government-Press relations ever since the Great Divide of 1969, the conflict became muted after India had played an honourable role in the Bangladesh war in 1971, when the entire nation, along with the Press, stood solidly behind Mrs. Gandhi. People felt their charismatic leader knew what was best for the nation, and had the uncanny faculty of doing the right thing at the right time. Newspapers too wondered whether the people were not after all right, and the great business of rationing and discussion which they carried in their columns was not really irrelevant to the running of the country. Being newspapers, however, they could do nothing else.

14. When the country came across another difficult patch in 1974-75, the seam began to grow wide again, and the under-currents of confrontation re-surfaced. As in earlier periods, Mrs. Gandhi

and her colleagues strongly criticised the newspapers, and regarded them as prime promoters of political chaos.

15. When the internal emergency was imposed in June 1975, newspapers were a major target. Censorship was imposed, and although the Government seldom undertook the vast and impossible task of pre-censoring the several thousand newspapers issuing from all parts of India, a set of guidelines was issued whose breach was to be censured and penalised with utmost seriousness. As the noise in the newspapers subsided, a great silence prevailed. As later events were to prove, the silence was deceptive, and a great chasm developed between the mood of the people and the tenor of the Government during the emergency, which led to the defeat of the Congress Party in 1977.

16. It is not necessary in a Minute of Dissent to go into details about the manner in which the Press was controlled in the emergency. They have been documented in the "White Paper on Misuse of Mass Media During the Internal Emergency" issued by the Government of India in August 1977. Apart from other measures to control the Press, the Government had put on the statute book, a draconian measure, viz., the Prevention of Publication of Objectionable Matters Act, 1976. The compulsory merger of the four news agencies, brought about by threat of denial of radio subscription and pressures of other kinds, and the manner in which the *Samachar* was organised and controlled, also underlined the dangers to the freedom of the Press that then existed. The Act was repealed after a new government came into power. The *Samachar* was also disbanded and *status quo ante* restored.

17. It was against the background of these events that the post-emergency Government of India decided to appoint the Second Press Commission. Announcing the decision, the then Minister of Information and Broadcasting, Shri L.K. Advani stated in the Rajya Sabha on 18th May, 1978 "A series of steps have already been taken during the last one year to strengthen the freedom and independence of the Press by way of setting right several aberrations of the Emergency.... Although these steps paved the way for the revival of a free and independent Press, it is considered that the time has come for an in-depth examination of the entire state of the Press in the country with a view to determining further steps that need to be taken to restore it to full vigour and health.... As its role in educating public opinion has been firmly established, it is essential to safeguard the freedom and independence of the Press against pressures of all kinds. All this points to the need for re-examining its place, status and functioning in a democratic set up more so, in view of the recent experience when the Press was subjected to a series of legal and administrative assaults."

18. The Commission, appointed in May 1978 under the Chairmanship of Justice P.K. Goswami, a retired Judge of the Supreme Court, continued to

function till January 1980. In July 1979, when there was a change of Government in New Delhi and Shri Charan Singh became Prime Minister after the resignation of Shri Morarji Desai, the Commission unanimously decided to tender its resignation "as a matter of propriety". The Commission wrote that its report "when submitted, will be a charge of the new Government and, therefore, this is the only course fair to the Government as well as to the Commission". The Commission reiterated that it had no intention to embarrass the Government or to shirk its responsibilities for the task assigned to it. It only wanted to establish a healthy convention. But the very next day, the new Government informed the Commission that it would like to continue with its work. The Commission, therefore, continued.

19. When there was another change of Government at the Centre in January 1980, the Commission again decided unanimously to tender its resignation in the same terms. Two weeks later, the Minister for Information and Broadcasting informed the Commission that "the new Government would like to continue the Commission based on a more comprehensive set of terms of reference. This, you will kindly appreciate, will be possible only if the Commission is reconstituted. It is in this context, that the Government has regretfully decided to accept your resignation".

20. The resignation of the Goswami Commission was accepted at the end of January 1980. The appointment of the New Chairman was announced on April 21, 1980. The names of ten members were announced on June 18, 1980, and the names of another two members were announced on October 16, 1980. The terms of reference of the reconstituted Commission were announced on July 24, 1980.

21. The terms of reference were not significantly different except that there was more stress on responsibility as a concomitant of Press freedom in a developing and democratic society. Some new items were included viz, the citizen's right to privacy, growth of small and medium papers, the flow of news to and from India, and the proposals for a new international information order.

22. Now to continue our brief resume of Government Press relations, after the Janata Party came to power in 1977, it found that the Press in India was severely critical of its inertia and its internecine quarrels. Leaders were sore that their egotistical perception of their own epochal importance was not shared by newspapermen, and one of them attributed it to the antipathy of the urban-educated middle class against the emerging peasantry in the countryside. One Union Cabinet Minister went to the extent of advocating the burning of the copies of a certain newspaper. Mrs. Gandhi continued to dominate the front pages of newspapers even after her defeat, because of her resilience in returning to the mainstream of politics, and because the Janata Government was having past events investigated. Important sections of the Press opposed the idea of a campaign

of vendetta against Mrs. Gandhi, and took up cudgels on her behalf when she was out of power.

23. The confrontationist attitudes of the past have continued unhappily to bedevil relations between Government and the Press after the Lok Sabha elections of 1980. Chief Ministers have compared the Press to snakes and scorpions, and one recently ordered the correspondent of a newspaper he did not like to leave his press conference. The malaise is not confined to any single party. In September 1981, the Tamilnadu Government amended the Indian Penal Code to enhance the punishment for publication of "grossly indecent or scurrilous matter". The offence has been made cognisable and non-bailable, and fine as well as imprisonment are now both mandatory. Because the offence is non-bailable, hostile journalists can be detained in police or judicial custody for quite some time before the matter is decided in courts. Another order of the Tamilnadu Government forbids Government servants from furnishing any information to the Press.

24. Not to speak of the Chief Ministers and others Prime Minister Smt. Indira Gandhi herself has been critical of the Press. In a recent interview, she said that the Indian Press was not functioning as a free Press. "The Press is the Opposition in India.... what is called the National Press.... They lead the Opposition.... It is not just reporting."\*

25. On top of the well-known causes of tension between the Government and the Press in any democracy, some additional ones have arisen in India. There has been a sharp drop in the standards of public morality in public life and the political process is proving inadequate for self-correction. This places a heavy responsibility on the Press which the better sections of it, are trying to perform to the best of their ability and resources.

26. As it happens, intellectual standards have gone down in our public life partly as a result of the rapid turnover in the last decade and partly as a result of the inevitable disappearance of the old guard brought up in the tradition of Gandhiji and Nehru. It will not be an exaggeration to say that, in some quarters, there is a tendency to treat public life as a form of bunsiness. This has produced considerable revulsion among the better educated and morally sensitive sections of our intelligentsia. This intelligentsia expects the Press to fill the breach. Again, it is to the credit of the Press that it is trying to do that at its own risk.

27. Witness its role in the recent exposures such as those regarding blindings in Bhagalpur, the cement distribution improprieties and other matters connected with the Trusts set up by the former Maharashtra Chief Minister, Shri A. R. Antulay, existence of bonded labour in many areas and the plight of under-trial prisoners. This list is not comprehensive and is not intended to be. Indeed, it is only an indication of the evils that would flourish if the

\*See *Indian Express*, Feb. 15, 1982.

Press is not to light up the dark corners of our society. We would go so far as to say that even so big a problem as the atrocities on the Harijans and the tribals would not attract the attention that they do but for a vigilant Press.

28. In fact, the complaint should be that the Press has not been vigilant, independent or courageous enough. It is so much easier to fill the paper with reports of what different people say, and what is happening in the corridors of powers in the Central and State capitals. Investigation of what is actually happening in the field, how the economy is faring, how land reforms are being implemented, how various projects are progressing and are being managed, whether various poor and oppressed sections are able to get the facilities that are provided for them, where established groups are misusing their powers—all this requires a great deal of effort, travel in remote areas and even some personal risk. But there has been a welcome tendency in recent years to report on such issues. To an extent, competition has grown among newspapers in investigative journalism and this is all to the good.

29. Such competition can however also lead to sensation-mongering and irresponsible attacks on Government and public authorities and character assassination of public men. This is specially so because criticism sells while appreciation does not. It is seldom that the Press praises the Government where praise is due. Public men and public institutions are often criticised on grounds which are ultimately found to be baseless. It is also well known that, like many other professions, journalists have also not been above misusing the influence and the power which they exercise. These tendencies are obviously not conducive to the growth of a healthy Press and therefore are also responsible for the deterioration in Government-Press relationship.

30. Certain principles need to be firmly kept in view. Free speech, at Emerson had pointed out, is important to ensure individual self-fulfilment; but even more so to ensure the participation of the governed in the process of decision-making. Moreover, free discussion is a method of maintaining the precarious balance between healthy cleavage and necessary consensus. "Suppression of expression merely conceals the real problems confronting a society and diverts public attention from the critical issues. It is likely to result in the neglect of the grievances which are the actual basis of the unrest and thus prevent their correction".\* The truth of these observations was established during the Emergency when those in power found that they were in the dark about what was happening in the country. It was only later that they came to know that vast masses of people had been alienated. President Wilson had pointed out long ago that "the seed of revolution is suppression". It has been emphasised that "nothing adds more to men's hatred of Government than its refusal to let them talk."

31. The desire of those in authority to control the media is reflected in the refusal of successive governments of varying complexions to set up an autonomous body for managing broadcasting. It is possible that the possessive attitude of those in power towards the broadcast media influences their approach to the Press. The official control of the broadcast media further highlights the vital role of the Press.

32. One unanimous conclusion of the Commission is that the present Constitutional provision may not be adequate to ensure a free Press. The case for a Constitutional Amendment in this regard has been made in Chapter IV of the Commission's Report. We are in agreement with the relevant recommendation. Instances of pressures on the Press have been mentioned in Chapter V of the Report, the White Paper of 1977 and in the evidence tendered before the Commission. Efforts for example, were made to stop private companies from giving advertisements to newspapers such as the *Indian Express* and *The Statesman*. Power cuts were imposed to create difficulties for certain newspapers. It is true that these attempts happily have been few and far between and, by and large, newspapers, especially in the metropolitan areas, have escaped undue harassment. Newspapers in provincial and district towns have not been so fortunate.

33. In our circumstances, government cannot but be armed with a large powers. A substantial part of the economy is also directly administered through public sector enterprises. It is, therefore, not difficult for those in power to use these instruments to obstruct the working of a newspaper undertaking if they so decide. Vigilance against such abuse is necessary. That is why a Constitutional Amendment, on the lines recommended in the Report or in any other suitable manner to ensure freedom of the Press more effectively is essential.

34. To our mind, the majority opinion is founded on the assumption that the more important newspapers have been irresponsible and need to be "disciplined". It is true that there have been occasions where some newspapers have conducted themselves without a proper sense of responsibility. There are instances of aberration. Even so, by and large, the Indian Press has acted in a responsible manner. On matters of national importance, it has exhibited a unity of purpose and exercised commendable restraint. In that context we do not see the need for some of the major recommendations made by the majority which we have been unable to endorse. If implemented, they may easily lead to the destruction of a Press which, despite all its failings, is by common consent, the most competent, responsible and independent in the entire Third World, something of which India can legitimately be proud. It is this basic difference of approach that has obliged us to produce this Minute of Dissent, not without regret.

\*Quoted in Freedom of Speech, ed. Franklyn S. Haiman, New York, 1978, pp. 204-205.

TABLE I

*Dailies : Percentage of space of Display and Classified Advertisements to total space—Category-wise and Language-wise*

Language	Advertisements Display						Advertisements Classified					
	V. Big	Big	Medium	Small	V. Small	All	V. Big	Big	Medium	Small	V. Small	All
	1	2	3	4	5	6	1	2	3	4	5	6
English	51.63	40.24	40.24	32.92	26.60	43.96	6.48	3.78	4.47	3.13	..	5.03
Hindi	40.68	45.10	35.00	22.89	38.62	34.72	4.56	2.07	3.33	1.26	0.64	2.72
Assamese	..	..	32.64	18.23	..	23.17	..	..	4.28	4.06	..	4.14
Bengali	48.01	..	19.50	15.25	16.27	27.21	1.10	..	9.46	..	..	1.07
Gujarati	43.42	43.56	31.44	25.06	41.69	36.86	2.16	1.28	0.94	1.00	0.52	1.32
Kannada	38.47	40.00	28.48	27.98	28.95	32.00	0.52	0.10	0.68	..	..	0.93
Kashmiri	..	..	..	..	..	..	..	..	..	..	..	..
Malayalam	42.30	22.54	23.38	50.47	36.18	32.02	6.37	2.86	2.84	1.68	0.79	4.00
Marathi	48.69	46.05	32.87	35.88	..	39.48	2.68	4.98	2.15	1.54	..	2.62
Oriya	..	52.11	49.30	29.34	18.07	49.46	..	1.52	..	0.07	..	1.20
Punjabi	..	..	32.35	14.01	..	21.16	..	..	17.96	11.79	..	14.20
Sanskrit	..	..	..	..	..	..	..	..	..	..	..	..
Sindhi	..	..	..	18.14	..	18.16	..	..	..	4.94	..	4.94
Tamil	33.96	23.75	24.64	17.43	..	27.76	3.92	0.89	1.10	0.86	..	2.31
Telugu	34.40	54.55	31.25	24.81	39.45	35.58	0.19	0.12	0.67	0.09	..	0.37
Urdu	..	45.07	31.20	25.61	18.40	27.17	..	0.15	0.11	0.28	..	0.21



TABLE 2

Average News Space and Advertisement Space per 1 paise in Big, Medium and Small Dailies published from Delhi

Sl. No.	Name	Language	Circulation 1980	Price	Total news for 3 days in col. cms.	Total Ad. for 3 days in col. cms.	News Space per 1 paise	Ad. space per 1 paise
1	2	3	4	5	6	7	8	9
				Paise				
1.	Janyug, New Delhi	Hindi	12248	40 (Sun 45)	6215.5	2184.5	49.72	17.47
2.	Nav Bharat Times, New Delhi	Hindi	346520	50 (Sun 55)	7275	5493	46.93	35.43
3.	Hindustan, New Delhi	Hindi	184756	50	7481.5	4502.5	49.87	30.01
4.	Pratap, New Delhi	Urdu	24199	50	5852	1423	39.01	9.48
5.	Milap, New Delhi	Urdu	22521	50	7382.50	2274.0	49.28	15.1
6.	Aljamat, Delhi	Urdu	N.S.	45	4848.6	500.0	32.32	3.70
7.	Tej, Delhi	Urdu	3471	45	6090.00	1011.50	45.11	6.74
8.	Qaumi Awaz, Delhi	Urdu	13775	50	10342.5	940.5	68.95	6.27
9.	Indian Express, New Delhi	English	121644	60	10875	7781	57.23	40.95
10.	Times of India, New Delhi	English	195381	60 (Sun 70)	11560.0	13227.00	60.84	69.61
11.	Statesman, New Delhi	English	33374	50	10538	8822	70.25	58.81
12.	Patriot, New Delhi	English	32617	50	12356.00	5452.00	82.37	35.01
13.	Hindustan Times, New Delhi	English	262334	60 (Sun 70)	9951	13857	52.37	79.93
14.	National Herald, New Delhi	English	17259	50	13671	5033	91.14	33.55

TABLE 3

Dailies : Cost of Display and Classified Advertisements

(In thousand rupees)

Languages	Display													Classified				
	Very Big	Big	Medium	Small	Very Small	Total	Very Big	Big	Medium	Small	Very Small	Total	Very Big	Big	Medium	Small	Very Small	Total
1	2	3	4	5	6	7	8	9	10	11	12	13						
English	21671.8	1292.1	5197.4	730.1	15.3	28906.7	2594.9	122.7	547.4	70.4	..	3335.5						
Hindi	1522.4	2494.5	1889.7	610.6	53.8	6570.9	179.1	116.8	169.2	33.7	0.9	499.7						
Assamese	..	..	69.8	49.7	..	119.4	..	..	9.4	13.2	..	22.6						
Bengali	3056.1	..	431.5	81.6	88.8	3658.0	127.0	..	1.8	..	..	128.8						
Gujarati	2730.3	678.5	1208.6	169.6	99.5	4886.6	126.3	20.0	38.8	7.1	0.3	192.5						
Kannada	95.9	76.4	177.1	39.0	36.8	425.2	6.2	0.4	8.4	0	0	15.0						
Kashmiri	..	..	..	..	..	..	..	..	..	..	..	..						
Malayalam	308.8	77.9	151.4	27.1	32.2	597.4	363.3	31.2	45.9	0.8	0.5	441.7						
Marathi	1344.7	587.0	496.0	219.4	14.0	2661.1	65.0	58.2	33.1	9.1	0.6	166.0						
Oriya	0	230.4	83.4	70.3	5.2	389.3	0	6.7	0	0.1	0	6.8						
Punjabi	0	0	103.7	69.6	0	173.3	0	0	57.7	56.3	0	114.0						
Sanskrit	..	..	..	..	..	..	..	..	..	..	..	..						
Sindhi	0	0	0	25.8	0	25.8	0	0	0	7.3	0	7.3						
Tamil	1299.8	68.8	87.5	20.2	0	1476.3	178.2	3.0	3.7	0.9	0	185.8						
Telugu	364.0	886.6	316.4	54.3	18.8	1640.1	2.0	2.2	7.4	0.2	0	11.8						
Urdu	0	144.5	304.9	547.7	38.7	1035.8	0	0.2	1.3	4.7	0	6.2						
Total	32393.8	6536.7	10517.4	2715.0	403.1	52565.9	3642.0	361.4	924.1	203.8	2.3	5133.7						

TABLE 4

*Value of display advertisements of various categories in English dailies by size*

		Total amount (in Rs. hundred)	Very Big	Big	Medium	Small	Very Small
			(in per cent)				
1	2	3	4	5	6	7	8
1. Central . . . . .		25,404 (9.81)	9.14	7.74	12.08	17.29	17.99
2. State . . . . .		23,145 (8.94)	8.23	13.78	10.50	9.70	34.53
3. Local . . . . .		3,081 (1.19)	1.15	0.45	1.41	2.14	0.72
4. Private . . . . .		38,406 (14.84)	16.05	14.25	9.63	17.6	5.76
5. Foreign . . . . .		1,142 (0.44)	0.43	0.70	0.41	0.5	..
6. Industrial . . . . .		33,617 (12.99)	13.69	17.20	9.28	11.40	..
7. Consumer . . . . .		60,664 (23.44)	22.75	28.29	25.42	20.93	7.91
8. Farm . . . . .		601 (0.23)	0.25	..	0.21	0.3	..
9. Entertainment . . . . .		26,623 (10.29)	8.43	8.36	18.47	10.19	5.04
10. Employment . . . . .		46,159 (17.83)	19.87	9.23	12.60	9.94	28.06
GRAND TOTAL . . . . .		2,58,842 (100.0)	1,93,765 (100.0)	11,815 (100.0)	46,761 (100.0)	6,368 (100.0)	139 (100.0)

NOTE : Figures within brackets in column 3 and also in the last line of columns 4 to 8 indicate percentage.

TABLE 5

*Value of classified advertisements of various categories in English dailies by size*

1	2	Total amount (Rs. in hundred)	Very Big	Big	Medium	Small	Very Small
			(in per cent)				
1	2	3	4	5	6	7	8
1. Central . . . . .		4,582 (18.09)	18.82	16.39	15.29	16.61	..
2. State . . . . .		7,034 (27.77)	26.48	35.07	31.53	33.05	..
3. Legal . . . . .		1,039 (4.10)	3.72	2.29	6.06	4.97	..
4. Private . . . . .		2,291 (9.04)	8.73	9.66	9.92	11.99	..
5. Foreign . . . . .		..	..	..	..	..	..
6. Industrial . . . . .		681 (2.69)	2.37	6.99	3.49	0.19	..
7. Consumer . . . . .		642 (2.53)	1.83	5.72	4.79	4.97	..
8. Farm . . . . .		..	..	..	..	..	..
9. Entertainment . . . . .		1,912 (7.55)	7.28	6.73	9.02	7.02	..
10. Employment . . . . .		7,151 (28.23)	30.77	17.15	19.89	19.52	..
TOTAL . . . . .		25,333 (100.0)	19,639 (100.0)	787 (100.0)	4,323 (100.0)	584 (100.0)	..

NOTE : Figures within brackets in column 3 and also in the last line of columns 4 to 8 indicate percentage.

TABLE 6

*Value of classified advertisements of various categories in Hindi dailies by size*

		Total amount (In Rs. hundred)	Very Big	Big	Medium	Small	Very Small
		(In per cent)					
1	2	3	4	5	6	7	8
1.	Central . . . . .	405 (9.46)	9.60	14.82	7.16	2.41	..
2.	State . . . . .	1,479 (34.55)	32.88	53.81	24.38	29.9	100
3.	Local . . . . .	496 (11.59)	9.99	5.18	15.91	20.27	..
4.	Private . . . . .	275 (6.42)	7.85	0.91	8.26	8.59	..
5.	Foreign . . . . .	..	..	..	..	..	..
6.	Industrial . . . . .	158 (3.69)	6.87	0.61	2.62	3.09	..
7.	Consumer . . . . .	242 (5.65)	2.98	1.42	11.16	6.37	..
8.	Farm . . . . .	15 (0.35)	0.32	..	0.62	0.34	..
9.	Entertainment. . . . .	655 (15.30)	9.73	12.28	20.59	26.12	90.0
10.	Employment . . . . .	556 (12.99)	19.78	10.96	9.30	2.41	..
GRAND TOTAL . . . . .		4,281 (100.0)	1,542 (100.0)	985 (100.0)	1,452 (100.0)	291 (100.0)	10 (100.0)

NOTE : Figures within brackets in column 3 and also in the last line of columns 4, 5, 6, 7 &amp; 8 indicate percentage.

**TABLE 7**  
*Value of display advertisements of various categories in Hindi dailies by size*

1	2	Total amount (In Rs. hundred)	Very Big	Big	Medium	Small	Very Small
			(In per cent)				
1	2	3	4	5	6	7	8
1. Central . . . . .		6,730 (11.30)	11.43	9.98	10.90	16.67	23.54
2. State . . . . .		11,027 (18.51)	15.08	19.95	19.77	18.18	6.70
3. Local . . . . .		2,679 (4.50)	2.63	3.58	6.40	7.23	3.24
4. Private . . . . .		2,860 (4.80)	6.45	3.55	4.58	6.67	3.67
5. Foreign . . . . .		31 (0.05)	..	..	..	0.23	..
6. Industrial . . . . .		3,992 (6.70)	7.60	8.30	4.09	5.47	10.80
7. Consumer . . . . .		19,659 (33.0)	39.35	36.69	28.25	17.50	22.03
8. Farm Related . . . . .		912 (1.53)	2.34	1.44	1.31	0.6	1.30
9. Entertainment . . . . .		7,698 (12.92)	8.58	9.53	18.08	20.72	27.65
10. Employment . . . . .		3,986 (6.69)	6.53	6.97	6.58	6.73	1.08
GRAND TOTAL . . . . .		59,574 (100.0)	13,666 (100.0)	23,014 (100.0)	16,802 (100.0)	5,633 (100.0)	463 (100.0)

NOTE : Figures within brackets in column 3 and also in the last line of columns 4, 5, 6, 7 & 8 indicate percentage.

## Appendix A to Minute of Dissent

The Enquiry Committee on Small Newspapers (1965), which was appointed specifically to look into the difficulties and problems facing small newspapers and to suggest measures for assisting and improving them, was vertically split over the price-page schedule, and it could recommend this measure for a period of ten years only with a five to four majority. The Chairman and Vice Chairman of the Committee were both opposed to the measure.

In his minute of dissent, the late Shri A.D. Mani, the then editor of *Hitavada* (Nagpur and Bhopal), both small newspapers run by the Servants of India Society, and a member of the First Press Commission, argued the case against the schedule powerfully. "The question arises whose view should prevail now, that of the Press Commission or the Supreme Court of India," he asked, and answered : "My answer is clear and without reservation. The Supreme Court's judgment should prevail."

Shri Mani was not convinced by the arguments about monopoly in the Press : "The arguments of the majority that the present state of the Press has encouraged the trend to monopoly is yet to be proved by statistical evidence. It would have been desirable for the Committee to have pointed out in what manner monopolies have been created in the country. It is because concentration of ownership in the U.K. had led to distortion of news that the Royal Commission of U.K. had commented on these trends. In my humble view such a situation has not arisen yet in India.

"I have had experience of newspapers in Nagpur and Bhopal which are primarily small newspapers' regions", Shri Mani wrote, "And my experience shows that whatever effort may be made by newspapers in this region, they cannot go beyond a certain optimum circulation; and that even in respect of advertisement revenue, their chances of competing with big newspapers of metropolitan cities are limited on account of the fact that the consumer market in this region is restricted. It is also noteworthy that throughout the enquiry that the Committee conducted, it came across *no case of a newspaper having been forced to close down on account of other newspapers publishing more pages at a lower price.*" (italics ours).

And again : "If the Committee had shown as a result of a statistical study and analysis of evidence that a certain point of view which could have been presented and should have been presented in public interest was not allowed to be presented on account of the larger number of pages which a big newspaper was in a position to print at what the Committee considered a low price, then the question could have been considered whether the number of pages that

the big newspapers published had resulted in the shutting out of a valid point of view.... If it could have been shown that small newspapers had set up a superior standard of performance in the matter of serving public interest than big newspapers, and that they would be in a position to increase the quality of their performance if they were given statutory protection in the form of an amendment to the Constitution, that position also could have been understood."

Shri Mani also pointed out that the implications of a Constitutional amendment providing for a price-page schedule would not be confined to newspapers : "Any amendment to Article 19 (1) (ii) dealing with printed matter will *ipso facto* apply to other forms of printed matter besides newspapers and periodicals. There are books and pamphlets, there are big publishing houses in the metropolitan cities, there are small publishing houses in other parts of the country. The economics of the larger publishing houses in the metropolitan cities help them to sell books at lower prices than those published by small publishing houses which have to content themselves with only printing a limited number of copies of publications at a higher cost than big publishing houses.... If the price of books is to be based not on their quality but on the number of pages they print, should it be necessary, for example, for a History of India to be sold at a fixed price of Rs. 2 per 200 pages or Rs. 4 for 300 pages ? Would not any such regulation of the trade in books make a mockery of freedom of expression ? Further why should the equalisation of opportunity in the matter of a rigid price-control be limited only to newspapers ?.... Would it be unreasonable to ask that other Constitutional amendments should be made to ensure a price-fixing machinery for all categories of manufacture which is for sale so that equality of opportunity enshrined in the Constitution can be achieved ?"

Shri R. R. Diwakar, Chairman of the Enquiry Committee agreed with this logic, and wrote : "The logic would be, if there can be a curb on newspapers and periodicals, why not on books, Cinema, radio, painting, and what not".

Regarding the argument that statutory news-to-advertisement ratio would lead to more advertisements being diverted to small newspapers, Shri A. D. Mani wrote : "The Committee has not shown anywhere in the report that by taking such drastic steps there would be a diversion of advertisements from big to small newspapers. From the evidence that was tendered before the Committee by the Indian Society of Advertisers and the Advertising Agencies Association of India, It was clear that the scope for advertisement in small newspapers was limited....



I fear there would be a diversion of advertising revenue from small newspapers to other forms of publicity, like posters and cinema slides." (Radio and television were not seen then as potent advertisement media, which they have become now).

In conclusion, Shri Mani wrote : "The recommendations, if accepted by Government, would send up the cost of living of the citizens in respect of their resources to buy newspapers. They would further amount to acceptance in principle of the Government's right to interfere, influence, and control the economy of newspapers; once that principle is conceded, it may be possible for the Governments of the future to extend the field of interference to bring into existence a State-controlled Press and such a Press would undermine democracy in the country. On these grounds, I regret I cannot be a party to these recommendations."

Another dissenting member of the Enquiry Committee on Small Newspapers, Shri M. Yunus Dehlvi, had this to say : "There has been no evidence before

the Committee that during the period a price-page schedule was in operation in England and during the short period it was imposed in India before being struck down by the Supreme Court as *ultra vires* of the Constitutional guarantees of freedom of Expression, it helped the growth of small newspapers."

"Shri A. R. Bhat, the chief exponent of the price-page schedule, told the Committee that the restrictions when they were enforced in India had the effect of reducing the circulations of some of the bigger metropolitan papers and of restricting normal growth in the circulations of some other newspapers of the same class. In my view, it was not one of the functions of this Committee to work for restraints on the growth of any section of the Indian Press or even to recommend the growth of one section of the Press at the cost of the normal development of another section. Ours is a developing country and acceleration in the growth of one section of the Press can be achieved out of the additional growth potential instead of circulation or advertisement revenues being diverted by statute, as it were, from one section of the Press to the other".



## Appendix B to the Minute of Dissent

In 1954, the First Press Commission concluded (para 52) after a survey that reasons which prevented interested households from going in for newspapers were primarily the cost and the lack of distribution facilities. "*There is obviously a real need for papers to be priced lower than they currently are,*" it said.

In 1975, the Fact Finding Committee on Newspaper Economics, headed by Dr. Bhabatosh Datta, the well known economist, commented : "if there is a strong case for making primary education and adult literacy universal and free and for providing text-books free of cost, there is also a case for doing whatever is possible for increasing the number of newspaper readers and for providing newspapers at a reasonably low price. It should be a clearly recognised policy in planning for socio-economic improvement that cheap newspapers should be available to a much larger number of readers than at present :

"While the apparent increase in the price of newspapers is about three-fold since 1961-62, the real increase in terms of the price per page is four to five-fold. This has given a new colour to the old debate on the price-page ratio. The case for price-page schedule rested mainly on the fear that the larger papers would outsell the smaller papers by offering a larger number of pages or by selling at a low price. The fear was particularly great in non-metropolitan towns where existing local papers were threatened by the entry of new editions of strong metropolitan papers. The position has now entirely changed. at present, particularly because of the large increase in price and shortage of newsprint, there is no danger of a large paper trying to outsell a smaller paper by charging a low price. Price competition between large papers and small papers has now become unimportant. The shortage in the supply of newsprint means that there cannot be much competition in regard to the number of pages offered."

In another chapter, the Committee states : "While it will not be desirable to put any limit on the total circulation of a paper or even its share of the total market, a close watch has to be kept on the consequences of expansion."

Discussing what could be a realistic ratio between news and advertisements, the Committee said that it recognised that in view of the difficulties of the situation, "it is unrealistic to ask newspapers to limit the advertisement space to 40 per cent. It should, not, therefore, be unreasonable to suggest that, as long as the present shortage continues, the new advertisement ratio in the total space should be around 50 : 50."

The Datta Committee had also warned that "any such restriction is not automatically going to divert the advertisements to small papers as the advertisers usually take into consideration the circulation, standing, class or readership, area of coverage, etc. in the selection of newspapers".

(ii) *Rejoinder by Shri K.R. Ganesh to Part 3 of the Joint Minute of Dissent*

The major difference of opinion in the Commission has been on the ownership structure of the press in the country. The package of reforms recommended in the Chapter on Press as a Public Utility was the most contentious issue. The minority members had indicated that they would give a note of dissent on the recommendations contained in that chapter. However it is surprising to find that the dissenting members in Part 3 of their dissenting note had included an 'overview' of Government-Press relations.

2. The Chapter on Government-Press relations had been adopted by the Commission after full discussion. The views expressed by the minority in their 'overview' of Government-Press relations touch upon some contentious political questions of the day.

3. The ownership structure of the Press has been a major subject of national debate. The reports of the First Press Commission, the Vivian Bose Commission, the Fact Finding Committee on Newspaper Economics, the resolutions of the Indian Federation of Working Journalists, the publicity stated views of intellectuals, academicians, veteran journalists have all brought out the harmful effects of the control of newspapers by business interests. These have been highlighted in the Chapter on Press as a Public Utility.

4. The members in the minority are for maintenance of *status quo* in the Indian Press. The ownership structure and control of the international Press has been assailed the world over as harmful to the freedom of the Press. The report of the MacBride Commission has been the first major international effort to focus public attention on this aspect.

5. It is most unfortunate that the members in the minority have touched upon political issues in their note of dissent. It was never the intention to turn 'events' into 'non-events'. In deciding not to discuss the question of internal emergency and censorship of the Press during that period the anxiety was to avoid the Commission being embroiled in a political controversy which would have served no purpose. Any such discussion would also have forced the Commission into defining and analysing the role of the Press

during that period. The accomplishment of such a task should necessarily have to wait for an atmosphere free from passions and prejudices. Such an atmosphere does not exist today.

6. During the latter part of the deliberations of the Commission, one witnessed a powerful campaign in the major newspapers on the dangers to a free Press. Any expression of view which did not fit into the archaic concept of Press freedom was seized on by the monopoly press to raise a hue and cry about 'authoritarianism'.

7. Part 3 of the note of dissent while mentioning the chronological events relating to the appointment of the Press Commission by the Janata Government in May 1978 and its reconstitution by the Congress (I) Government in 1980 lets out a hint that the terms of reference of the reconstituted Commission were not significantly different although the avowed object of reconstitution of the Commission was enlargement of the terms of reference. This gives an impression that the minority is trying to attribute improper motive in the reconstitution of the Commission. The members in the minority could not be unaware that such an impression is likely to be created.

8. Whether the declaration of internal emergency was an appropriate response to the situation obtaining at the relevant time cannot be discussed in a forum like the Press Commission. The data required for such an analysis and the issues involved are beyond the scope of the Commission. As already stated, a realistic appraisal has to wait for an appropriate atmosphere.

9. One cannot lose sight of the fact that in times of emergency the Constitution does provide for press censorship. The performance of the press during the period of the internal emergency and some time before proclamation of the emergency was not all that responsible and the press had become a centre of extra-constitutional power fuelling the forces of destabilisation by advocating overthrow of duly elected government through extra-constitutional means. It cannot be denied that the stabilisation brought about during that period led to the revival of the democratic process. Later events have proved that the vote for Janata in 1977 was an aberration. Even in 1977 the southern states had rejected the Janata alternative. Within three months of its triumph the percentage of vote for Janata in the Assembly elections fell by a hefty 10 per cent. A series of bye-elections held between 1977 and 1980 testify to the transient nature of the 1977 vote. The general elections of 1980 set at rest all speculation about the direction in which the wind was blowing. In short the campaigns carried out by the press were set at naught by the electorate.

10. After the elections in 1980 the trend in the press is to present Jawahar Lal Nehru as a 'liberal visionary' while featuring authoritarian overtones on the part of the present Prime Minister. The public cannot forget that the same press had targetted Nehru

in his time by characterising him as a crypto-communist and putting him in the pro-soviet lobby. The progressive measures taken by him were furiously attacked by the press. The continuous role of a section of the Indian Press has been the running down of personalities like Jawahar Lal Nehru, T.T. Krishnamachari, V.K. Krishna Menon, K.D. Malaviya and others who in their own way were responsible for building up self-reliance in different spheres of national activity. By trumpeting their critical role during the Janata regime this section of the press cannot delude public opinion and project themselves as objective interpreters of the Indian situation. The fact is that this section of the press became objective only when they could very well see that the Janata conglomerate was collapsing.

11. There is a trend in the country which takes the view that the press need not function within the framework of the Indian Constitution as outlined in its Preamble, the Directive Principles and the Fundamental Duties of citizens. There can be no freedom of the press if a plurality of views cannot be made available to the public to enable public issues being judged in a fair and objective manner. The danger of major newspapers commanding large readership owned by business and commercial interests giving expression to one set of views only which are in conformity with the views of their owners has to be guarded against. The main argument of the minority members against delinking is that press is an industry and it has to be professionally managed and therefore the economics of newspaper industry justifies its links with other business and commercial interests. If this argument is accepted, there can never be an independent Press and none other than industrial and commercial interests will be in a position to manage large-sized newspapers. There is enough wisdom in the country to find solutions to questions affecting the economics of newspapers and the technological problems relating to them.

12. The technological revolution in the contemporary era is influencing thought processes in all directions in a significant manner. For the first time in man's long history of struggle for a better world, the technological revolution has brought within his reach an instrument which has all the potential of solving many of his basic problems. Under its impact, there has been a world-wide discussion on the role of communication as an instrument of advancement. The report of the MacBride Commission is a sincere effort to present a blue-print for a new communication order. The role of the multi-national media has come in for increasing criticism as representing a vehicle of domination, misrepresentation, distortion and deliberate falsification. Its claim to freedom of expression and objectivity has been greatly assailed. When international efforts are on to enlarge horizons of the communication media with a view to making them subserve the larger objectives of human progress and development by transforming them into vehicles of peace and progress, information and education, science and humanism and friendship and brotherhood, it would be tragic if the Indian

Press were to restrict itself to the 'adversary role' which is only a part of the integrated role which the society expects it to play.

## PRESS COMMISSION

(iii) *Statement by the Chairman regarding Part 3 of the dissenting note by Shri Justice Sisir Kumar Mukherjee, Shri Rajendra Mathur, Shri Girilal Jain and Professor H. K. Paranjape*

Dissent may be expressed in any manner the Members deem fit. I would like to point out the following with respect to this part :

It has been stated the report of the majority contains a lacuna in that it does not provide a comprehensive review of the Government-Press relations as they evolved since 1954 and that there is no reference to the internal emergency (1975-77).

The draft chapter on Government-Press relations was discussed in detail and the suggestions as well as the dissent expressed by the Members were incorporated therein and the draft chapter was finally approved by the Members. The inadequacy or the lacuna now being mentioned was not pointed out then. The draft section on pre-censorship was fully discussed and finally adopted with a lone dissent of Professor Paranjape. He was of the view that pre-censorship should be justified only in times of emergency as defined in the Constitution. At no stage was there a suggestion from any member that pre-censorship during the emergency should be discussed. The fact is that imposition of pre-censorship is warranted by the Constitution especially when an emergency is declared. Any discussion on pre-censorship during the internal emergency would have boiled down to a discussion of the question whether declaration of emergency was legitimate when the declaration itself was approved by Parliament, and taken the Commission beyond its competency and the terms of reference.

25th March 1982.

(iv) *Reply to Rejoinders by Shri Justice Sisir Kumar Mukherjee, Shri Rajendra Mathur, Shri Girilal Jain and Prof. H. K. Paranjape*

I

Shri K. R. Ganesh's Rejoinder is, in a large measure, a statement founded on his broad approach to what he calls the 'monopoly press'. It leaves no room for doubt that in Shri Ganesh's view the role played by big circulation dailies has been an undesirable one since Shri Nehru's time, and that, therefore, this section of the press needs to be restructured.

2. Beyond pointing this out, we are not concerned here with the tenability of Shri Ganesh's proposition. We wish to deal only with specific issues raised by him.

3. Shri Ganesh says that in our minute of dissent dealing with Government-Press relations, we have raised "some contentious political questions" relating

to the internal emergency. We have done nothing of the kind. We have not expressed any view on whether it was necessary for the Government to declare emergency, nor have we discussed how the Government generally used its powers during that period. We have only referred to issues which we regard as relevant to the freedom of the Press, and pointed out the consequences of censorship even for those in authority.

4. While the Constitution allows the Government to proclaim emergency and impose censorship, it can hardly be argued that it was proper for the Government to use its control of the All India Radio to compel four news agencies to merge into one and to seek to control the newly formed news agency, or to force change of editors or of boards of directors. Similarly, the Press (Publication of objectionable matters) Act, 1976 cannot be justified in terms of the emergency powers granted to the Government under the Constitution. It is significant that the present Government has not sought to revive these measures. In tracing the development of Government-Press relations since Independence in a chronological order, reference to successive regimes and their interaction with the Press is only appropriate. We have tried to deal with these matters in a fair and objective manner.

5. We repeat, we have not raised any controversy on political issues.

6. Shri Ganesh says: "The members in the minority are for maintenance of *status quo* in the Indian Press". This is far from being the case. We do not wish to detail here our recommendations in regard to the organisation of the Press. But we may briefly recall that we have not only endorsed the recommendation for the establishment of Newspaper Development Commission in order specifically to help small and medium newspapers but also made in our joint Minute of Dissent other proposals such as the appointment of public directors in the case of joint stock companies and the establishment of advisory boards in the case of individually owned newspapers or partnerships, and an advertisement tax as a disincentive to excessive advertisement.

7. Shri Ganesh contends: "During the latter part of the deliberations of the Commission, one witnessed a powerful campaign in the major newspapers on the dangers to a free Press". We do not quite understand the implications of this statement. To the best of our knowledge there was no such campaign to influence the Press Commission. As should be evident to any reader of the Indian Press, this issue has agitated the minds of newspapermen for a long time; and it is well known that the Press reacts whenever it is criticised by those in authority.

8. Shri Ganesh suggests that some people believe that the Press need not "function within the framework of the Indian Constitution as outlined in its Preamble, the Directive Principles and the Fundamental Duties of citizens." Incidentally, this quotation sums up the case of one side to the controversy on the Constitution. It is not necessary for us here to elaborate on this controversy. Suffice it to say that under the law of

the land as it stands today, the Preamble and Directive Principles do not override Fundamental Rights. Indeed, in this context, the Commission has unanimously recommended a Constitutional amendment to place the freedom of the Press beyond any question.

9. Finally, we are heartily sorry that Shri Ganesh has permitted himself to make some observations in paragraph 7 of his Rejoinder which reflect on our *bona fides*. He has assumed that we are "trying to attribute improper motive in the reconstitution of the Commission". We have attributed no motive to the Government nor have we made any insinuation in regard to the reconstitution of the Commission. We have not questioned the right of the Government to reconstitute the Commission or the propriety of it.

## II

10. In his rejoinder to our joint Minute of Dissent, the Chairman says: "The inadequacy or the lacuna now being mentioned was not pointed out" when "the draft chapter on Government-Press Relations was discussed". He has stated that except for Prof. Paranjape, there was no dissent on the issue of pre-censorship and that "at no stage was there a suggestion from any member that pre-censorship during the emergency should be discussed".

11. With respect, the Chairman appears to have overlooked the fact that Government-Press relations have several aspects. Apart from the chapter on "official Agencies and the Press", these aspects have been touched upon in other chapters, viz., Constitution and Laws, Press as an Industry, Press as Public Utility and the Role of the Press. These issues also figured in several other general discussions.

12. The record of discussions shows that some members clearly expressed their viewpoint in this regard when the first draft of the Introduction (chapter one) was discussed between October 12 and 16, 1981. In response to the Chairman's suggestion to delete a number of paragraphs the minutes quote Shri Rajendra Mathur as saying: "The antecedents of the Commission cannot be suppressed and it will be necessary to take note of the political changes which preceded the reconstitution of the Commission", adding "that events cannot be converted into non-events". Another member—not belonging to the dissenting minority—also stated that "it should be recorded for posterity as to what happened and when". The minutes further record that "Shri Girilal Jain, who was not present on the opening day, said at the start of the proceedings on the second day that his acceptance of the First Chapter, particularly the deletion of paragraphs giving the background of the Commission's establishment, should not be taken for granted. Shri Rajendra Mathur reiterated his reservations on the deletions".

13. Dr. H. K. Paranjape, who was not present at these meetings, stated at subsequent meetings from December 3 to 5 and December 7 to 10, 1981, that "to ignore emergency would be to ignore a major aspect of the history of the Indian Press since the First Press Commission reported". He had also stated at an earlier meeting (July 6 to 11, 1981) that

a provision enabling the executive to impose pre-censorship and also to decide the question of "extreme necessity" could be misused. At the same meeting, it was pointed out that it was necessary to put the freedom of the Press beyond challenge in view of the experience during the emergency.

14. Some of us also stated from time to time that since there were differences of opinion on some basic issues, there was no point in reiterating them at every stage of the discussion; and that these would find expression in our Minute of Dissent.

15. The Chairman is right in pointing out that "the imposition of pre-censorship is warranted by the Constitution especially when an emergency is declared". But we are unable to agree that "any discussion of pre-censorship during the internal emergency would have boiled down to a discussion of the question whether declaration of emergency was legitimate".

16. There is no necessary connection between declaration of emergency and imposition of censorship and between imposition of censorship and a particular manner in which it is implemented. The two issues relating to censorship can be discussed independently without bringing in the larger question "whether declaration of emergency was legitimate."

### (v) Chairman's statement regarding paragraphs 10 to 16 of "Reply to Rejoinder" of dissenting members

In paragraphs 10 to 16 of their "Reply to Rejoinder" circulated on March 29, 1982, the dissenting Members have replied to my statement regarding part 3 of their joint minute of dissent which was circulated on 25th March, 1982. Once again I feel it is my duty to put the record straight.

2. The Commission had discussed at length the various issues arising out of the terms of reference and had arrived at decisions on many of them by the time it met on August 18, 1981 for the 13th session. The minutes of that session indicate that the secretariat was directed to prepare and circulate the draft chapters. While doing so the secretariat was expected to take into account the discussions which had already taken place. However, the Commission had not deliberated on what should be the contents of introductory chapter and it was taken for granted that that chapter would contain only particulars relating to the appointment of the Commission, the procedure adopted by it, the magnitude of information collected through studies, oral and written evidence etc. etc. The draft chapter entitled "Introduction" was prepared and circulated by the Secretariat. The chapter as circulated along with appendices I.1—5 incorporated there in at that time is given in Appendix 'C'. This chapter was discussed at the 15th session held from October 12 to 16, 1981. The paragraphs giving the background to the constitution of the Commission, the appendices containing the speeches of Ministers and the correspondence relating to the resignation of the Goswami Commission were dropped. The dropping of this material was opposed by Shri Rajendra

Mathur and Shri Prem Chand Verma. Shri Girilal Jain indicated his opposition thereto after the discussion on the draft chapter had come to an end. All these are apparent from the minutes recorded, the relevant portion of which is extracted in appendix 'D'. The objections raised by Sarvashri Rajendra Mathur, Girilal Jain and Prem Chand Verma were all directed to the dropping of the material metioned above from the draft chapter on "Introduction" and had nothing to do with the discussion on any other topic. Dr. Paranjape's remark that "to ignore emergency would be to ignore a major aspect of the history of the Indian Press since the first Press Commission reported" was in the context of discussion on the draft chapter relating to "Role of the Press" during the 16th session held from December 3—10, 1981. None of them suggested discussion on emergency or pre-censorship during emergency or widening of the scope of discussion on government-Press relations either during the 15th session or 16th session or thereafter obviously because the Commission had already concluded discussion on most of the issues arising out of the terms of reference at its earlier sessions and draft chapters relating to all the items were being prepared. The minutes of the earlier sessions indicate that at no time was there any suggestion from any member that emergency or pre-censorship during

emergency should be discussed or that the scope of discussions relating to government-Press relations was inadequate.

3. The subject of pre-censorship had been discussed at the 7th, 10th and 12th sessions of the Commission held from January 20—22, 1981, May 21—24, 1981 and July 6—11, 1981 respectively and the subject of government-Press relations had come up for discussion in one aspect or the other at almost every session of the Commission. The draft chapter containing the section on pre-censorship was adopted at the 16th session held from December 3—10, 1981. The draft chapter on government-Press relations which was renamed "official Agencies and the Press" was discussed at the 16th session and adopted during the 17th session held from January 4—9, 1982. The minutes of discussion pertaining to these chapters do not indicate that the dissenting members had raised the issues now being raised by them at those relevant stages of discussion.

4. All that some of the dissenting members did was to raise objections to the deletion of certain portions in the draft chapter on Introduction. They were overruled by the majority which thought that the inclusion of that material was quite unnecessary.



## Secretariat's Draft

## INTRODUCTION

1. The terms of reference of successive Press Commissions in a country reflect the concern of society and of the Government about the role of the Press in specific historical contexts.

*First Press Commission*

2. The First Press Commission of India was constituted in 1952 under the Commissions of Inquiry Act passed by Parliament earlier that year. By then newspaper publishing, which had largely been a dedicated vocation during the movement for independence, was changing into an industry. Some leading newspapers which were formerly British-owned were acquired by Indian interests. The terms of Reference of the First Commission\* took note of the incipient problem of newspaper monopolies and chains.

\*"The Press Commission shall enquire into the state of the Press in India, its present and future lines of development and shall in particular examine—

- (i) the control, management and ownership and financial structure of newspapers, large and small, the periodical Press and news agencies and feature syndicates;
- (ii) the working of monopolies and chains and their effect on the presentation of accurate news and fair views;
- (iii) the effect of holding companies, the distribution of advertisements and such other forms of external influence as may have a bearing on the development of a healthy journalism;
- (iv) the method of recruitment, training, scales of remuneration, benefits and other conditions of employment of working journalists, settlement of disputes affecting them and factors which influence the establishment and maintenance of high professional standards;
- (v) the adequacy of newsprint supplies and their distribution among all classes of newspapers and the possibilities of promoting indigenous manufacture of (i) newsprint and (ii) printing and composing machinery;
- (vi) machinery for (a) ensuring high standards of journalism and (b) liaison between Government and the Press; the functioning of Press Advisory Committees and organisations of editors and working journalists etc.;
- (vii) freedom of the Press and repeal or amendment of laws not in consonance with it;

and make recommendations thereon."

*Goswami Commission*

3. The decision to form a second Press Commission was taken by the Government formed by Shri Morarji Deasi in March 1977 following the sixth General Elections to the Lok Sabha. The Announcement was made in the Rajya Sabha on 18th May 1978 (See Appendix I.1). The terms of Reference\*,

\*"The Press Commission shall enquire into the growth and status of the Indian Press since the last Press Commission reported and suggest how best it should develop in future. It shall, in particular, examine :—

- (i) The present constitutional guarantee with regard to the freedom of speech and expression, whether this is adequate to ensure freedom of the Press, and the adequacy and efficacy of the laws, rules and regulations relating to and affecting the Press;
- (ii) Means of safeguarding the freedom and independence of the Press against pressures of all kinds from Government, proprietors, advertising, commercial, trade union, political or other sources, in a plural and democratic society;
- (iii) Ownership patterns and the financial structure of organs of the Press with a view to ensuring editorial independence and professional integrity and the readers' right to objective news and views and comments freely expressed;
- (iv) The relationship that should exist between the Government and the Press especially with regard to access to information, accreditation, official patronage or subsidies;
- (v) The structure and functioning of the existing news and feature agencies and measures necessary for their growth as strong and viable organisations that can cover news monitoring at every level right down to the grass-roots and also world news;
- (vi) Relations that should subsist between different elements of the Press, viz., publishers, managers, editors and other professional journalists, etc.
- (vii) Measures necessary to raise and maintain high standards of journalism and to inculcate among journalists and newspapers a due sense of public and social responsibility corresponding to the power of the Press, its role in national reconstruction and its obligation to the readers;
- (viii) Ways and means to promote the growth and development of the language and regional Press as also the periodical Press, specialised journals and syndicated services;
- (ix) The economics of the newspaper industry, including ways and means of rectifying deficiencies and evolving the basis for a fair price for newspapers keeping in view legal and constitutional requirements;
- (x) The adequacy of training in communications, journalism, newspaper management printing, technology and newspaper design and graphics as also the desirability and feasibility for higher learning in journalism and mass communications.



announced in a Notification dated 29th May 1978, reflected concern about safeguarding the freedom of the Press.

4. The full-time Chairman of the Commission was justice P. K. Goswami, Retired judge of the Supreme Court, and the part-time Members were Sarvashri Abu Abraham; Prem Bhatia; S. N. Dwivedi; Moinuddin Harris; Ravi J. Mathai; Yashodhar N. Mehta; V. K. Narasimhan; F. S. Nariman; Arun Shourie (on whose resignation Nikhil Chakravarty was appointed); and S. H. Vatsyayan. The Commission was expected to submit its report by 1st June 1979 but its term was extended, first till 31st December 1979 and then till 31st March 1980.

5. Following the resignation of the Government headed by Shri Morarji Desai the Goswami Commission tendered its resignation on 30th July 1979. (See Appendix I.2). The new Government headed by Shri Charan Singh asked the Commission to continue with its work (See Appendix I.3).

6. On the fall of the Charan Singh Government, the seventh general elections to the Lok Sabha were held in January 1980 and a new Government was formed by Smt. Indira Gandhi. The Goswami Commission once again tendered its resignation on 14th January 1980. (See Appendix I.4). The resignation was accepted (See Appendix I.5) with a view to reconstituting it on the basis of a more comprehensive set of Terms of Reference.

#### *Reconstitution and Revised Terms*

7. The reconstitution was effected in stages. Justice K. K. Mathew, Retired Judge of the Supreme Court, was appointed as Chairman by a Notification of the Government of India in the Ministry of Information & Broadcasting, No. 14/5/80-Press, dated 21st April 1980. The names of ten Members were notified on 18th June 1980, namely : Shri Justice Sisir Kumar Mukherjee, Retired Judge of the Calcutta High Court ; Smt. Amrita Pritam, Author ; and Sarvashri P.V. Gadgil, Marathi writer and Journalist ; Ishrat Ali Siddiqui, Editor of *Qaumi Awaz* (Urdu daily) of Lucknow ; Rajendra Mathur, Editor of *Nai Duniya* (Hindi daily) of Indore ; Girilal Jain, Editor, *Times of India* ; K. R. Ganesh, former Union Minister of State ; Madan Bhatia, Advocate, Supreme Court ; Ranbir Singh, Editor of *Milap* (Urdu daily) of Delhi ; and Professor H. K. Paranjape, Economist and formerly Chairman, Railway Tariff Inquiry Committee, and former Member, Monopolies and Restrictive Trade Practices Commission.

8. The Terms of Reference of the reconstituted Commission, which was expected to submit its report by 31st December 1980, were notified on 24th July 1980. They are as follows :

“The Press Commission shall inquire into the growth and status of the Press since the first Press Commission reported and suggest how best it should develop in future.

It shall, in particular, examine and make recommendations on :

1. The role of the Press in a developing and democratic society.
2. The present constitutional guarantee with regard to the freedom of speech and expression, whether this is adequate to ensure freedom of the Press ; adequacy and efficacy of the laws, rules and regulations for maintaining this freedom.
3. Constitutional and legal safeguards to protect the citizen's rights to privacy.
4. Means of safeguarding the independence of the Press against economic and political pressures and pressures from proprietors and management.
5. Role of the Press and the responsibilities it should assume in developmental policies.
6. The Press as an industry, a social institution and a forum for informed discussion of public affairs.
7. Ownership patterns, management practices and financial structures of the Press ; their relations to growth, editorial independence and professional integrity.
8. Chain newspapers ; links with industry, their effect on competition and on the readers' right to objective news and free comments.
9. Economics of the Newspaper industry ; newsprint, printing machinery and other inputs for newspapers.
10. Advertising--Government and private, educational and commercial.
11. Government - Press relations and the role of Official agencies.
12. Relations that should subsist between different elements of the Press, namely, publishers, managers, editors and professional journalists and others.
13. Growth of small and medium papers and of the language Press.
14. Development of the periodical Press and specialised journals.
15. News coverage and news values ; structure and functioning of news agencies ; flow of news to and from India.
16. Training of professional manpower ; steps to improve professional standards and performance ; research in journalism and mass communication.
17. Journalism as a means of better mutual understanding in the context of proposals for a new international information order.

## 18. Perspective of newspaper development.

9. The notable features of the revised Terms of Reference and the concept of responsibility as a concomitant of Press freedom in a developing and democratic society ; the inclusion of the citizen's right to privacy ; the growth of small and medium newspapers ; the flow of news to and from India ; and the proposals for a new international information order.

10. Consequent on the resignation of Shri Madan Bhatia, he was replaced by Shri Prem Chand Verma, President of the All-India Small and Medium Newspapers Association, as Member by a Notification dated 16th October 1980. By the same Notification, Shri Justice A.N. Mulla, Retired Judge of the Allahabad High Court, was appointed in addition, taking the number of Members to 11 besides the Chairman. With the subsequent resignation of Smt. Amrita Pritam, which was accepted on 29th January 1981, the strength was again 10 Members besides the Chairman.

11. The Goswami Commission had received 7,412 replies in all to the set of 30 questionnaires sent out to more than 45,000 addresses including editors and publishers of newspapers and periodicals, Press correspondents, lawyers and judges, Members of Parliament and of the State Legislatures, news and feature agencies, advertising agencies, associations of journalists, information officials of the Central and State Governments and various other Officials and non-Officials. It obtained evidence from 810 witnesses during its sittings held all over the country, and received 231 memoranda. The Goswami Commission also initiated more than 200 studies on various aspects of the Indian Press, in different languages, to be conducted by individuals and institutions,

12. All this material had to be studied. Besides, some new questionnaires had to be issued, fresh evidence taken and data obtained in relation to the new items in the revised and enlarged Terms of Reference. Therefore, the reconstituted Commission sought an extension of the Commission's term by a year from 31st December 1980 to 31st December 1981. This was accepted and formally notified by the Government on 31st December 1980.

13. There was a change in the incumbency of the post of Secretary to the Commission. Shri M.V. Desai who was posted as secretary of the Goswami Commission with effect from 20th June 1978, continued in that capacity after the reconstitution of the Commission till his retirement on superannuation on 31st October 1980. The new Secretary, Shri G.N.S. Raghavan, took charge on 28th November 1980.

### *Procedure of work*

14. In the regulations of procedure initially framed by the Goswami Commission and notified on 6th January 1979, it was provided *inter-alia* that "all hearings of the Commission will be open to the public except when the Commission may, for any sufficient reason, think it fit to sit in camera." Subsequently this provision was dropped and substituted by : "The

Chairman or any Member authorised by the Chairman may, according to circumstances, after notifying any person, examine him at any place on any matter relevant to the Terms of Reference." The change was made in order to enable the witnesses to speak freely and frankly. The reconstituted Commission continued this practice.

15. Another decision taken by the Goswami Commission and adhered to by us was that the coercive powers of a civil court conferred by the Commissions of Inquiry Act would not be invoked, since it might only lead to litigation and delays.

16. The effective working life of the fully reconstituted Commission was to be only a little over 14 months—from mid-October 1980 to the end of 1981. It was therefore felt that it would be useful to constitute Working Groups comprising Members of the Commission who would address themselves to three clusters of the Terms of Reference, namely : Role and economics of the Press ; Constitution and laws ; and Indian-language, small and medium news papers. The research wing of the Commission's secretariat (the other wing being administration) prepared a series of Working Papers giving background data and posing issues for consideration by the Working Groups and by the Commission as a whole. The research wing also prepared and circulated a number of General Papers of an informative nature bearing on the functioning of the Press in India and various countries of the world.

17. The Commission after its reconstitution initiated some studies to fill gaps in required data, on the techno-economic and other aspects of newspaper publishing. Notable among the news studies are : a survey of the editorial and advertisement contents of newspapers published in various parts of India in different languages, which was entrusted to the Operations Research Group, Baroda ; a futuristic study of the likely size and profile of the Indian Press and its readership by the end of the century, a study of the changing technology and costs of composing and printing ; and a survey, conducted by the Commission's secretariat in co-operation with the All-India Small and Medium Newspapers Association, to verify the actual existence and ascertain the felt needs of the small and medium newspapers listed in the 24th Report of the Registrar of Newspapers for India covering calendar year 1979.

18. We recommend to the Government that copies of the various studies initiated by the Commission, and the Working papers and general papers prepared by its secretariat, be made over for preservation to appropriate institutions such as the Indian Institute of Mass Communication and the Research and Reference Division of the Ministry of Information & Broadcasting for reference by scholars.

### *Scope and Scheme of the Report*

19. The Hutchins Commission on Freedom of the Press in the U.S.A. discussed in its Report \* the role

\*A Free and Responsible Press, University of Chicago Press, 1947.

not only of newspapers but also of radio (television was yet to become a mass medium), motion pictures, magazines and books, because, taken together, they were "the most powerful single influence on American culture and American public opinion." However, the scope of inquiry by that Commission was defined by the Commission itself.

20. The third Royal Commission on the Press in the U.K. (headed by Professor O.R. McGregor) was asked specifically to consider, among other matters, "the interaction of the newspaper and periodical interests held by the companies concerned with their other interests and holdings, within and outside the communications industry".

21. We considered the possibility of discussing the role of radio and television journalism in India; since news on radio in particular is an important supplement to newspaper journalism. We decided against it because of the specific delineation of the scope of our inquiry by the Terms of Reference. However, we note with approval the stress laid in the policy guidelines given to All India Radio and Doordarshan by the Ministry of Information and Broadcasting, on 2nd July, 1980, on the importance of the Official media remaining "credible as well as interesting to all sections of the society", on news and comments being disseminated "in a fair, objective and balanced manner including contrasting points of view", and on problems and issues being "covered from the public point of view without any hesitation in bringing out healthy criticism".

22. We present our Report in three parts :

Part I : Survey and Recommendations  
(Volume 1)

Appendices (Volume 2);

Part II : Indian Press : 1954-81  
(Summaries of studies on the growth registered and role played by the Indian Press in various languages), broadly covering the period since independence ; and

Part III : Analysis of Newspaper Contents  
(Findings of a sample survey of editorial and advertisement contents of different categories of newspapers in various languages.).

The Appendices in Volume 2 Part I give the questionnaires issued by the Commission; a list of the studies initiated; a list of persons interviewed; a list of organisations/individuals who submitted memoranda; venue and dates of meetings held by the Commission; the expenditure incurred on the Commission; and numerous statistical tables and extracts from documents whose inclusion would have made Volume I unwieldy.

#### Acknowledgements

23. We have profited from the pioneering work done by the First Press Commission and the data gathered and views offered by subsequent inquiries: the Inquiry Committee on Small Newspapers headed by Shri R.R. Diwakar which was appointed in March 1964 and reported in September 1965; the Fact Finding Committee on Newspaper Economics headed by Dr. Bhavatosh Datta which was appointed in April 1972 and reported in January 1975; the one-man committee under the chairmanship of Shri K.K. Dass, a former Secretary of the Ministry of Information and Broadcasting, to inquire into misuse of mass media during the Internal Emergency" whose report was issued as a white paper in April 1977; and the Committee on News Agencies under the chairmanship of Shri Kuldip Nayar, which was appointed in April 1977 and reported in August 1977.

24. Beside these, there have been three Wage Boards/Tribunals for Working Journalists and non-journalist Newspaper Employees, whose reports contain a wealth of data on newspaper organisation and economics.

25. We are grateful for the co-operation extended to us by all those who gave evidence before the Commission, submitted memoranda and replied to questionnaires, and to various departments of the Government both at the Centre and in the States who, with a few exception furnished the information sought by us.

*Decision to form Second Press Commission*

Announcing the decision to form a Second Press Commission, Shri L.K. Advani, the then Minister of Information & Broadcasting said in the course of a statement in the Rajya Sabha on 18th May 1978 :

“A series of steps have already been taken during the last one year to strengthen the freedom and independence of the press by way of setting right several aberrations of the emergency. These [measures have included dismantling the] apparatus of Press Censorship, the repeal of the Prevention of Publication of Objectionable Matter Act and the revival of the Parliamentary Proceedings (Protection of Publication) Act. A Bill for the establishment of the Press Council has already been introduced in Parliament, and referred to a Joint Committee. Although these steps have paved the way for the revival of a free and independent Press, it is considered that the time has come for an indepth examination of the entire state of the Press in the country with a view to determining further steps that need to be taken to restore it to full vigour and health.

“A comprehensive study of the problems of the Indian Press was conducted by the First Press Commission which submitted its report in July 1954. Since then, the Indian Press has undergone several changes. It has taken new strides and has acquired an added significance with the continuously expanding readership. As its role in educating public opinion has been firmly established, it is essential to safeguard the freedom and independence of the Press against pressures of all kinds. All this points to the need for re-examining its place, status and functioning in a democratic set up—more so, in view of the recent experience when the Press was subjected to a series of legal and administrative assaults. It has, therefore, been decided to appoint a Second Press Commission under the Commissions of Inquiry Act, 1952.”



JUSTICE P. K. GOSWAMI  
Judge, Supreme Court of India (Retd.)  
Chairman, Press Commission

July, 30 1979

Dear Prime Minister,

The reason for my addressing you is that as a matter of propriety it is desirable for a Commission to tender its resignation on a change of Government. This enables the new Government to view afresh the subject of continuance of the Commission in all its aspects.

The Press Commission's report, when submitted, will be the charge of the present Government and, therefore, this is the only course fair to itself as well as to the Government.

All the Members of the Commission are unanimous in this view.

This letter is written not with the object of embarrassing the Government nor to shirk the Commission's responsibility for the task assigned to it but to establish a convention.

Therefore, on my behalf and on behalf of all the Members of the Press Commission tender herewith our resignations.

With all good wishes,



Your sincerely,  
Sd/-  
(P.K. Goswami)

Shri Charan Singh,  
Prime Minister  
12, Tughlak Road,  
New Delhi.

D.O. No. 2/1/77-Press

Minister of Information & Broadcasting, India

New Delhi

July 31, 1979

Dear Shri Goswamiji,

Kindly refer to your letter dated 30th July, 1979 addressed to the Prime Minister tendering the resignation of yourself and the Members of the Commission.

2. Government appreciate the sentiments which have prompted you to write this letter. They have considered the matter and would like you and the Members of the Press Commission to continue with the work. I shall be glad if you and your colleagues accordingly continue with the work of the Commission.

With regards,

Yours sincerely,

Sd/-

(Purushottam Kaushik)



Mr. Justice P. K. Goswami,  
Chairman,  
Press Commission,  
New Delhi.

JUSTICE P. K. GOSWAMI

Judge, Supreme Court of India (Retd.)

Chairman, Press Commission

January 14, 1980

Dear Prime Minister,

The Press Commission is of opinion that as a matter of propriety it is desirable to tender its resignation on a change of Government to enable the new Government to view the subject of its continuance in all aspects. Earlier also, resignation was tendered by the Commission when Shri Charan Singh had headed the Government on Shri Morarji Desai's resignation.

The Commission's Report, when submitted, will be the charge of the new Government and, therefore, this is the only course fair to the Government as well as to the Commission.

This letter is written not to embarrass the Government nor to shirk the Commission's responsibilities for the task assigned to it, but to establish a healthy convention.

I, therefore, on my behalf and on behalf of the Members of the Press Commission, tender herewith our resignations.

With all good wishes.



Yours sincerely,

Sd/-

(P. K. Goswami)

Mrs. Indira Gandhi  
Prime Minister of India,  
South Block,  
New Delhi-110011

Copy to :—

All Members.



D.O. No. 2/1/77-Press

MINISTER OF  
INFORMATION & BROADCASTING  
INDIA

Shastri Bhawan

New Delhi-110001

January 28, 1980

Dear Justice Goswami,

Kindly refer to your D.O. letter of January 14, 1980, addressed to the Prime Minister tendering your resignation as well as that of the other Members of the Press Commission.

I am happy to note that during the course of the short period the Commission has been in existence, it has done valuable work by going round to different centres in the country, interviewing a large number of witnesses and collecting a mass of data and information. The new Government would like to continue the Commission based on a more comprehensive set of terms of reference. This, you will kindly appreciate, will be possible only if the Commission is reconstituted. It is in this context that the Government has regretfully decided to accept your resignation as well as the resignations of your colleagues.

I would like to take this opportunity once again to convey my appreciation and thanks to you and to the other Members of the Commission for devoting so much of their time and energy to this work of obvious public importance.

With kind regards.



Yours sincerely,

Sd/-

(VASANT SATHE)

Justice P. K. Goswami  
Chairman,  
Press Commission of India,  
NEW DELHI.

## PRESS COMMISSION

*Extracts from Minutes of the Commission's Meetings (15th Session) held at New Delhi from October 12 to 16, 1981*

The following were present :

Shri Justice K.K. Mathew	—Chairman
Shri P.V. Gadgil	—Member
Shri K.R. Ganesh	—Member
Shri Girilal Jain	—Member
(from 13th to 16th October)	
Shri Rajendra Mathur	—Member
Shri Justice S.K. Mukherjea	—Member
Shri Ranbir Singh	—Member
Shri Ishrat Ali Siddiqui	—Member
Shri Prem Chand Verma	—Member
Shri G.N.S. Raghavan	—Secretary

## Introductory Chapter

2. About Secretariat's Draft of Chapter 1, "Introduction", Chairman suggested that the first-three paragraphs giving the background to the constitution of the second Press Commission may be dropped along with appendices giving text of Shri L.K. Advani's speech in the Rajya Sabha announcing the decision to constitute the Commission and the correspondence with the Government before the resignation of the Commission and its reconstitution. In their place, a simple mention should be made of the appointment of the Commission in May 1978 with its Terms of Reference. Chairman also suggested that paragraphs 5 and 6 may be dropped and may be substituted by a simple reference to the effective resignation of the Goswami Commission with the change of Government in the wake of the 7th General Elections to the Loh Sabha. In the discussion that followed these suggestions, Shri Rajendra Mathur said that the antecedents of the Commission cannot be suppressed and it will be necessary to take note of the political changes which preceded the reconstitution of the Commission, adding that events cannot be converted into non-events. Shri Prem Chand Verma said that it should be recorded for posterity as to what happened and when. The Chairman's suggestions were eventually accepted.

3. It was decided to drop original para 9 of the draft which gave the notable features of the revised Terms of Reference.

4. In para 11 of the draft, it was decided to give a break-up of the addressees to whom questionnaires were sent by the Goswami Commission. Similarly,

a break-up is to be given of the replies received to show how many responded from among the various groups like Press correspondents, newspaper editors, lawyers and judges, Members of Parliament and so on.

5. Paragraph 12 will be re-written with a fresh, sub-heading to bring out the work entailed by the New Terms of the reconstituted Commission.

6. Paragraph 4 of the original draft giving the composition of the Goswami Commission should also identify the Members.

7. Paragraph 14 of the original draft was to be pruned, omitting the reference to the Chairman or any Member examining any person on any matter relevant to the Terms of Reference. It was decided to say instead that the re-constituted Commission examined witnesses *in camera* to enable them to speak freely and frankly.

8. Regarding paragraph 15, it was suggested that the names of organisations and individuals who did not co-operate with the Commission, might be mentioned.

9. The Commission decided to drop three paragraphs 19 to 21 of the original draft which referred to the Hutchins Commission on Freedom of the Press in the USA and the third Royal Commission on the Press in Britain. The information contained in paragraph 21 on the role of the official media may be used in the chapter dealing with Government and the Press.

10. Regarding para 23 of the original draft, the Commission decided by consensus to mention only that the study of the Press by the Press Commission was followed by several other studies including those by Shri R.P. Diwakar, Dr. Bhabatosh Datta, etc., but excluding the reference to the study by Shri K.K. Dass on "Misuse of Mass Media during the Internal Emergency", whose report was submitted to parliament as a White Paper in August 1977. The reason adduced was that unlike the other studies the Dass Report was 'motivated'. Another view was that it would be invidious to eliminate the Dass Report from the Introduction since it was part of the history of the Press.

11. Shri Girilal Jain, who was not present on the opening day, said at the start of the proceedings on the second day that his acceptance of the First Chapter, particularly the deletion of paragraphs giving the background of the Commission's establishment, should not be taken for granted. Shri Rajendra Mathur reiterated his reservations on the deletions.

(vi) *Comments of Shri P.V. Gadgil on the Joint Minute of Dissent*

The dissenter's contention is that each or some of them at various meetings of the Commission had given expression to the views expressed in the minute of dissent, and therefor the Chairman ought to have expected the minute of dissent to come.

A Commission or Committee, having undertaken to consider and decide on any issue having many sides, has to sit in many sessions and discuss points formally, informally, semi-formally, and Members give expression to their views in like manner, often with an intention of aiding the discussion of each and every aspect. When after long and threadbare discussion, an issue reaches the stage for final decision and the conclusion is adopted without demur, it is usually presumed that the different viewpoints expressed earlier at various meetings were adopted, adapted, adjusted or left out or abandoned with the express or tacit consent of the Members who participated in the adoption of a Chapter. If, in the present case, the dissenters had as strong and solid reservation as is apparent from their dissent minute, they ought not to have allowed the relevant Chapters to be adopted unanimously. In my view it is not proper to confront the Chairman with a dissent note on such Chapters.

I beg to state that though I appear to speak on behalf of the Chairman, it is not so, I am speaking for myself only. I had, for instance, anticipated that there would be a strong difference of opinion on Government-Press Relations in regard to criticism of Government. The dissent minute has in it a long treatise on the issue. This has been so strongly and bluntly worded that those who knew that they were to write so detailed and strong a note ought to have, in time, notified such an intention and given the Commission time and opportunity to debate it. In such a debate I would have raised the objection that while the Government might have been, and was surely to a large extent, at fault in its reaction to Press criticism, the Press also was not very gentlemanly or polite during all the 30 years since independence. The Press, particularly the top English and Indian-language newspapers, have behaved irresponsibly and with animus against the Government. One example will prove illuminating. On this point I differ with Chairman and I am putting it here as my own views. The freedom of reporting legislative proceedings, granted by the Feroze Gandhi Act (which, I have argued in my dissent note on privileges, is unconstitutional), was off and on during the Indira Gandhi period abused by the Press for character assassination. This created a poisonous atmosphere and ultimately led almost to a civil war between certain forces of disruption and the Government. The responsibility for the Emergency was more on the Leftist parties' behaviour, which was provoked and applauded by the Press most irresponsibly along with the character assassination campaign which they undertook. If the dissenters had very strong views on Government-Press Relations and had asked for a full debate on the question, I would have brought this abuse of the Feroze Gandhi Act to attention for discussion. This opportunity was denied to me.

I have no particular grudge against this. But if the treatise on Government-Press relations contained in the dissent note is to be published in the Commission's Report, the readers of the Report will be deprived of the opportunity of knowing the opposite viewpoint and story of irresponsible behaviour on the part of the Press during all the 30 years past. Hence my present note.

(vii) *Dissenting note of Shri Prem Chand Verma relating to Chapter II entitled 'Retrospect 1952—1982'*

*Hindi Language Newspapers*

The First Press Commission's Report in 1954 examined the problems relating to the development of newspapers as they existed at that time. Now, after a lapse of 28 years the Second Press Commission is to make recommendations in the situation obtaining at present as well as keeping in view the next fifteen years.

2. It is my considered opinion that the question of development of Hindi newspapers should in no case be dealt with at par with the newspapers of regional languages. I fully recognise that all languages included in the schedule attached to the Constitution should be given equal opportunities to develop for which all encouragements needed be provided and their problems resolved with sympathy and understanding.

3. However, Hindi language has a pre-eminent position inasmuch as it is the Official language of the country and is ultimately to replace English language. It is, therefore, only fair that its problems and extension programme are treated entirely on a different and special footing. In other words effective steps should be taken to bring it to an equal position with English with a view to providing it the status of National Press in the real sense of the term within a reasonable period of time.

4. According to 1981 census the population of India was more than 68 crores. The total circulation of newspapers was estimated at 4,64,49,000. The population of six Hindi-speaking States and one Union Territory was 29,02,00,687. In addition the population of Punjab, Jammu & Kashmir, Gujarat and the Union Territory of Chandigarh, where Hindi is read, written and spoken extensively is 5,69,63,321. Taken together the population of Hindi knowing people comes to 34,71,64,008 or a little above half of the total population. Further in Maharashtra, Andhra Pradesh, Karnataka which together have a population of 16,02,70,184 nearly 50% of the people can read, write and speak Hindi/Urdu well. If these 50% people (nearly 8 crores) are also taken into account, the number of Hindi knowing people would come to 43 crores. Apart from it, considerable number of people in the remaining States also are Hindi knowing. These facts make it abundantly clear that Hindi is truly our national language and the necessity of its development and extension cannot

be overemphasised. It should be brought to a level that it should be possible for Indian people in all the States in the North, South, East, West and Centre to read national and international news and information through Hindi Press.

5. At the time of First Press Commission daily newspapers comprised 41 in English and 76 in Hindi with circulation of 6.97 and 3.79 lakhs respectively.

The position in 1980 was as under:—

	No.	Circulation
1. English dailies	98	32.80 lakhs
2. Hindi dailies	333	46.10 lakhs

The above figures would show that the readership of Hindi newspapers is growing at more than double the rate of English newspapers.

6. At present, it may be that thousands of newspapers and periodicals are published in the country, but their total circulation is only 4,64,49,000. This means that circulation is 14 copies per 1000 persons or only 1.5% people read newspapers, which is indeed too low.

7. On the other hand, while the Hindi knowing population is 43 crores, the circulation of Hindi newspapers is only 1,02,59,000. In other words, for every 42 persons, one copy is published. This position of the national language indeed calls for a stupendous effort for its development. The figures quoted are true and reveal the problem in reality that we have to resolve.

8. In the light of above, I recommend the following measures for the development of Hindi newspapers :—

- (i) The Government of India should make arrangements through P.I.B.'s offices in each State for release of Press material in Hindi also in addition to English and regional languages.
- (ii) All State Governments should treat Hindi language on equal footing with local regional languages and should make necessary changes in their policies for all purposes.
- (iii) Government of India should continuously examine the progress and development of Hindi language newspapers published in Non-Hindi States and Union Territories. An Expert Committee should be set up for this. The Secretary of the Committee should not be of a rank lower than Joint Secretary. This Committee should be made responsible for sorting out the problems, removing of obstacles and fulfilling the needs of Hindi newspapers. The Committee should keep a watch on advertisement and other policies of State Governments and Governments of Union Territories with a view to ensuring

that Hindi newspapers are not ignored or suffer disadvantages. The Committee should make suitable recommendations from time to time to the Government of India for the speedy development of Hindi Newspapers.

- (iv) In order to improve the standard of Hindi journalism and for its further promotion suitable curriculum and training facilities be organised in the Universities and training institutes.

*(viii) Supplementary note of Shri Prem Chand Verma on small and medium newspapers*

Under Term No. 13 of its Terms of Reference the Press Commission was required to examine and make recommendations on the development and growth of small and medium newspapers. Unfortunately, however, the Commission has failed to apply its mind to the problems of this section of the Press.

2. A large part of the report of the Commission deals only with the larger and relatively prosperous, newspapers. Some of the problems of small and medium newspapers have come in for mention in different parts of the report but they have not been brought into sharp focus anywhere.

3. On my suggestion, the Commission had carried out a survey of small and medium newspapers. An analytical report of the survey was also prepared bringing out their financial problems and need for assistance for acquiring land, buildings and machinery. However, apart from mentioning the results of the survey (the report has been given in Appendix II. 17), the Commission has not come out with specific recommendations to meet the needs of small and medium newspapers.

4. The role of the small and medium newspapers in the development of the country as a whole cannot be played down. The majority of the Indian population even today live in rural areas. But their level of development is low compared to the urban population. The need for the flow of information to and from the rural people is, therefore, all the greater. The larger and more well-known daily newspapers which have, by and large, monopolised the attention of the Commission are all published from the metropolitan and other large towns. They are produced by big industrial houses and other business concerns who give no thought to the well-being of the rural population. Most of the editors and journalists of these big papers are city-bred people who have little or no sympathy for the rural people. The result is that the big dailies cannot and do not reflect the problems and aspirations of the rural population.

5. It is the small newspapers, both dailies and news periodicals, who have the potential to bridge the communication gap. Small newspapers are brought out by people with small means, they come

out from the smaller towns and carry local news and cover problems concerning the local people. These newspapers speak in the languages of the people in the villages and are read and understood by them. These papers alone are capable of influencing or building up public opinion. They serve as a bridge between the people living at distant places in the interior of the country on the one hand and the local administration, State Governments and the Central Government on the other. They bring to the notice of the authorities the sufferings, difficulties and needs of the people while carrying to the people the type of information from the Government which they need. These papers are the best vehicles for building up unity and communal harmony among the people and promoting the process of development, by strengthening the roots of democracy.

6. It is sad that the growth of the small and medium newspapers in the country has been very slow as compared to the growth of the larger papers.

7. According to the records of the Press Registrar, the average circulation of a small daily (circulation upto 15,000) was 4,100 in 1952. Twenty seven years later in 1979, the average had gone up just to 4,900. The average circulation of medium dailies (circulation 15,000 to 50,000) went up from 25,900 to 28,100. Against this, the growth of the big dailies has been nothing less than phenomenal. From an average circulation of 71,800 in 1952, they achieved an average circulation of 1,22,800 in 1979. Taking into account newspapers of other periodicities, the average circulation of all small newspapers has in fact come down from 2,700 in 1960 to 2,300 in 1979. Medium newspapers have shown only a marginal improvement from an average circulation of 24,600 in 1960 to 27,100 in 1979. As against that, the average circulation of big newspapers, dailies and periodicals together, rose from 84,600 in 1960 to 1,17,200 in 1979. Looking at the situation from another angle, in 1952, small and medium dailies accounted for 83 per cent of the total circulation of daily newspapers in India. Today they account for only a little over 43 per cent. Taking dailies and periodicals together, small and medium newspapers accounted for 82 per cent of the total circulation of all newspapers in 1960 but in 1979 their share in the total circulation had come down to 56 per cent.

8. It is often contended by the protagonists of the bigger papers that small newspapers indulge in yellow journalism and black mailing, that they lack business acumen and hanker only after government advertisements. It is said that such newspapers do not maintain professional standards and do not deserve to be assisted. While some of the small newspapers may, indeed be, practising yellow journalism it should be appreciated that the large circulated newspapers are no paragons of virtue. On the other hand, while a few rags with negligible circulation can hardly affect the society, a large paper that violates the unwritten code of ethics of journalism can do incalculable harm.

9. As regards the lack of business acumen among the owners of small newspapers and the lack of regularity of some of the papers, it will be wrong to blame them for the same. If a newspaper which can make a positive contribution to the developmental processes but cannot make itself a financially viable proposition for the owner, it is for the state to see that the paper does not fold up. If a small newspaper cannot come out regularly because it cannot buy newsprint in the black market or because it cannot afford to take the supply of newsprint allotted by the Press Registrar from a distant depot of the State Trading Corporation, it is not the fault of the newspaper, it is the fault of the system. It is the duty of all of us to see that such papers do not die.

10. According to the techno-economic survey of small and medium newspapers done by the Commission, a large number of dailies and periodicals in the small category earned less than 15,000 rupees in a year from either sales or advertisements. Some papers did not have any income from advertisements. The survey of newspaper contents carried out by the Operations Research Group, Baroda had also revealed that big newspapers gather more than 75 per cent of the money spent on advertising through newspapers.

11. The small newspapers' share in the total advertisement revenue was found to be only 6.2 per cent. Based on this the Commission's Secretariat made an estimate according to which all big newspapers got advertisement worth Rs. 12,340 Lakhs in 1980 of which all small newspapers got only Rs. 4,376 Lakhs. It is nothing less than unfortunate that only 174 out of 17,168 newspapers should corner 56.6 per cent of the total advertising revenue, while nearly 17,000 small newspapers should get only 20 per cent. Ending of such injustice cannot be left to the mercy of the so-called market forces as contended by the spokesmen of the bigger newspapers. If the small and medium newspapers have a role to play in the development of the country they should get their share of advertisement revenue. There is nothing wrong or immoral in assisting small newspapers through advertisements so long as it is not used as a lever to influence the policy of the newspaper.

## RECOMMENDATIONS

### (i) *Specific Advertisement share allocation*

In my opinion the Government should treat the small and medium newspapers in the same manner as it treats the scheduled castes and backward classes in the country. The Union Government as well as the Governments in the States including public sector undertakings should allocate at least 50 per cent of their advertisement expenditure to small and medium newspapers of which at least 60 per cent should be allocated to news periodicals. Of course the basis of release of advertisements should take into account the circulation, the standards of journalism and the quality of production of each paper. No

newspaper found guilty of yellow journalism should be assisted. Even the advertisers of consumer goods should recognise the growing importance of the rural market. They should stop patronising only the big newspapers particularly those in English, and start releasing advertisements in the good small dailies coming out from the districts.

(ii) *Subsidy on newsprint and other facilities*

I have repeatedly drawn the attention of my colleagues in the Commission to the fact that only a very small section of the Indian Press has monopolised the consumption of newsprint. Newsprint as we all know, is an imported commodity for which the country spends large amounts of precious foreign exchange. In my opinion it will be a criminal waste of public money if the injustice in the allocation of newsprint is continued. It should be noted that 25 big newspaper concerns were allotted more than 2,34,000 tonnes (68.3 per cent) of newsprint out of the total of 3,42,000 tonnes allotted to newspapers in 1979-80.

As brought out in the survey of small and medium newspapers, a large number of such papers were being printed on white printing paper which is costlier than newsprint. Ironically, it is the small papers which are more in need of cheaper paper. The total demand of newsprint of the small and medium newspapers is not very substantial and Government should see to it that each such paper gets its requirements of newsprint before the demands of the bigger papers are met. The official price of newsprint in recent years has recorded a steep increase. It is beyond the reach of most of the smaller newspapers. Keeping in mind their limited demand and in view of the positive role they play in the development of the country, it will not be asking too much of the Government to demand a subsidy on the sale of newsprint to small newspapers. Newsprint to small and medium newspapers should be subsidised by Government to an extent that brings its price within the means of such papers.

(iii) *Facility for Import of suitable Printing Machinery*

The Commission in its report has recommended the import of re-assembled second-hand printing machinery for the use of small newspapers. While endorsing this, I would like to point out that the needs of the small newspapers are not confined to printing machinery only. As brought out in the survey of small and medium newspapers, a large number of such papers are in need of metal types. Government should make a survey of the existing facilities with regard to the manufacture and supply of metal types for printing press and take necessary steps to help the small newspapers. Such newspapers should also be given finance to get other equipment required by them.

(iv) *Provision of land at nominal cost and loans for setting up Press and Office*

The survey brought out the fact that almost two-thirds of the dailies and other periodicals who responded had their offices in rented buildings. A large number of such newspapers said that they would like to have their own buildings. In terms of value of the land and the cost of construction, the need of most of the newspapers was less than Rs. 1 lakh each. On a rough estimate the total requirement of small newspapers for purchasing land and buildings will not be astronomical. The Government provides land at a nominal cost to small scale industries. Similarly, it helps them to build their factories at liberal terms. Similar facilities should be extended to the small and medium newspapers. All Governments should allot plots of land to such newspapers to meet their minimum requirements in terms of setting up of press and office.

(v) *Accreditation facilities for weeklies*

In order to be able to provide the necessary information, small newspapers need to have easy access to the sources of information. Accreditation enables the journalists to have direct access to government departments. I think it is necessary to give accreditation to small newspapers coming out from the districts. Since most of the newspapers published from rural areas are weeklies, accreditation should not be confined to dailies only, but should also be given to editors of other small news periodicals.

(vi) *Machinery to monitor growth and developments*

Government should take up on a priority basis the task of helping small and medium newspapers to grow. They should try to minimise the unhealthy competition faced by small newspapers from the bigger newspapers. The Ministry of Information & Broadcasting of the Government of India and the State Governments should simplify their policies to help the small and medium newspapers and streamline the machinery for its implementation with a view to helping the small and medium newspapers. A joint committee consisting of Government officials and representatives of genuine national newspaper organisations should be set up to monitor the proper implementation of such policies and to make recommendations from time to time on the basis of its findings.

I would like to reiterate that all my recommendations with regard to the small and medium newspapers should aim at the growth of the genuine papers which have the potential to make a positive contribution in the development of the country. Assistance should not be given to the small time rags which come out from time to time with the sole purpose of getting money from the Government. No help should be given to papers which resort to blackmailing and other unethical practices. While assisting the small and medium newspapers the Government should ensure that only genuine newspapers benefit from such assistance.

(ix) *Upgrading the Quality of Indian Language Dailies*

## A SUPPLEMENTARY NOTE

P. V. Gadgil

If Indian language newspapers are to fulfil their role of mass awakening and nation-building, planned efforts should be directed to raise the quality of the regional language dailies so that they, each of them, aspire to match the first-rank English dailies.

The present position in India is a travesty. In France the first-ranking daily newspaper is in French; in Germany it is in German. The first-ranking daily newspaper in terms of quality in each region in our country should therefore be a paper in the language of the region. But in India, with many regional languages spoken by populations as large as each of the West European countries, the first-ranking daily newspaper, in point of quality, is everywhere in English, while the next-ranking regional language daily is, in point of quality, far behind.

The argument often advanced is that no regional language of the country is rich and developed enough to deal adequately with the problems of modern society. This is not a tenable argument. If, say, on the midnight of 15th-16th August 1947 all the English daily newspapers in India had ceased publication, most of the brilliant writers of today's English dailies, 99 per cent of whom have some Indian language as their mother-tongue, would have naturally started writing in their mother tongue and would have done their job as brilliantly as they do in English today. They could have, of course, continued to enrich their intellect by means of learned books and journals in English but would have formulated and assembled their thoughts in an Indian language which would have, as a result, developed strength enough to deal adequately with modern problems. After all, languages develop with the development of intellect, skills and culture of society through the media of expression on the part of workers, thinkers, narrators and preachers who in turn develop their cultural powers along with the general development of society.

I am not for expulsion of English from India. The predominance of English in India was historically inevitable and has also proved beneficial to this country as it has helped India intellectually, culturally and emotionally to join the mainstream of world thought and world events. Also, during the foreseeable future we shall have to take the help of all developed languages in the world including English for the development of our languages.

When the language of courts or universities or political or financial administration will become non-English is beside the point here. I am confining myself to elevation of the quality of Indian language dailies so that they not only match but even surpass the best English dailies. The emergence of high-quality Indian language dailies will lead naturally

to the respective regional languages flowing to courts and universities. After all, common people mould a language through the daily newspapers now-a-days.

During the last twenty-five years, readers of daily newspapers in all the regions of the country have multiplied many-fold. There has been tremendous awakening in the masses who feel provoked and have become unmanageably astir to get their grievances removed and secure their demands. Regional language news dailies which reach the general reading public, and through them the masses, have played the key instrumental role in this awakening. But these language dailies suffer from lack of adequate quality in terms of proper information, thinking and criticism, for the reason that an undue volume of scarce resources in the form of intellect, skills, finance, materials and opportunities are attracted by the English dailies which are rapidly rising in quality and size, leaving the language dailies deficient in resources and therefore far behind in quality. The most brilliant and incisive English writers, of today, who could have moved millions in the right direction are allowing themselves, without reaching the common people, to be folded in the arm-pits of the elites.

The contradiction in the situation is glaring and highly detrimental to national interest. Barely five per cent of the public who are wealthy and well placed, the elite who are mentally as also physically far removed from the masses, are catered for by the high quality English dailies, while the general public constituting ninety-five per cent have directly or indirectly to gulp the not very high quality stuff offered by resource-poor language dailies. The contradiction is painful because the resource-poor language dailies cannot produce the sober, thoughtful atmosphere pervaded by knowledge and a sense of responsibility. There is, thus, no shared body of information, insights and attitude as between the top crust of the elite and the common people below. It is true that in single-language countries in like those Europe, high-quality papers are not read by the masses. But because of the homogeneity of thought process resulting from a single-language situation, high thought sprinkled on the top soil percolate to the bottom. This cannot happen in India.

There is in our country a new danger. Daily newspapers in Indian languages are thriving in terms of circulation because of demand arising from general awakening. If the level of quality is not promptly and quickly lifted by vastly adding to the resources of the Indian language dailies, low culture and low taste will thrive.

I beg to state that the Commission has devoted very little time and attention to the problem of improving the quality of Indian language journalism. Let me show what should be, and what is, the situation today, rather figuratively. The tallest mountain in India pours the purest water from its sky-high head on the lowly lands below. The holy flow in turn makes holy the lakhs of water currents that rush into it from both sides and mix with it on its way. The flood



takes in its flow all the dirt, all the sewage from miles upon miles of habitation, fertilises thereby the soils that sustain and nourish millions, and ultimately merges in the sea—only to be resurrected by the blazing sun to run the cycle of its holy ministry of fertilising the earth. But, in our world of journalism in India, writers in English, though English is not their mother-tongue, take pride in the fact that the Gargotri flowing from their brains directly pours into the Mahasagar (which is after all just a dead sea) without polluting itself in the dirt and sewage of thousands of miles of the lowly landscape. They should realise that they are missing a mission of awakening the masses. The significance of why Nehru wished his ashes to be immersed in the Ganga and other holy rivers and of India has yet to dawn on these brilliant brains. Man's intellect, as life-giving water, is his maker's noblest and mightiest gift. Like the water from the highest mountain going down to the lowliest landscape to spread nourishment and joy among the children of the soil, the intellect of the loftiest brains should wish to rush down to the lowliest to spread intellectual and emotional nourishment and energy and to urge for self help. The day on which this happens will be the turning points in India's current history. No Government, no political parties, no universities, surely not English journalism, but only Indian language journalism developed by the best brains can bring salvation to the nation through mass awakening.

The task is so vast as to be mind-boggling in a country which is seeking to achieve rapid development within the democratic framework. There are sober-minded experienced, elderly journalists and statesmen in India, who have developed an analytical mind and detached judgement and are asking the Indian journalist to adopt a detached, balancing role as between the economic classes and other groups contending for shares in the cake of national development. This would have been adequate if it was only an economic conflict. But the burst of conflicts in recent years all over India, in the rural as well as the urban spheres, has not come about only on the economic front as 'capital *versus* labour' or 'landlord *versus* peasants', as the theorists of socialist doctrine had visualised as inevitable in the modern era all over the world. We have in our country an unfortunate historic heritage of multiple castes, multiple religions, and multiple sect. It is a tall sociological, emotional, psychological hierarchy, almost a skyscraper, of strata upon strata erected on the philosophy of dumb and unquestioning submission to a system of inequality. This structure has now been shaken and it is breaking to pieces and is getting pounded to rubble by mighty and noble Western ideas of democracy and equality. Once the political bondage of the country was ended, people at large were awakened to these ideas by Indian language papers almost precipitately. The sudden awakening of the down-trodden millions was and is, naturally, unsettling and confounding to the upper strata. They in turn started violently suppressing what seems to them an illegitimate revolt against what had been for centuries an edifice designed by God with inequality as the cementing essence.

It is there that the Indian language journalist has to play an educative role of great importance. He can and must speak to the masses at large and convince them that though the burst of violence resulting from sudden awakening might be understandable, it is not the way to mend matters. Violence breeds violence and leads to utter destruction. The path of constructive, peaceful and dedicated effort preached by Gandhi is the only way for a poor country to achieve progress within the democratic framework. The Indian language journalist in the present Indian situation cannot be a passive and detached onlooker. He must reach the masses and preach a halt to hatred, violence and destruction, and advocate a mutual-help effort to build a co-operative commonwealth on the basis of equality, peace, tolerance and harmony.

The circumstances of the emergence of democracy in India dictate such an active role for the Journalist. The founding fathers of our Constitution chose for India a parliamentary democratic constitution of the British type, but, unlike Britain, based on adult franchise from its very start. The British parliamentary system grew over centuries, first through bloody struggles and later through hot debate in parliament and outside. Half the adult population, i.e., womenfolk, were not given the right to vote even as late as after the first World War when Britain was already fully industrialised, highly educated and technologically advanced. On the contrary, India, an industrially, technologically and educationally backward and agriculturally poor country, accepted a full-fledged adult franchise democracy from the start of its free existence. This step was not taken thoughtlessly. Throughout the decades of the freedom struggle the leadership had affirmed that nothing less than a free and democratic Constitution based on adult franchise would be acceptable to India, and when the time came for fulfilling the assurance, the Indian Constituent Assembly, freely debating in detail for three long years, forged the constitutional instrument on the assured pattern.

This meant that the long and hard period of preparation of the people, in countries like Britain or France, for exercising rights and bearing responsibilities owing from the establishment of a full-fledged democracy was abridged in our country to a quick one-time instalment. This necessarily implies that leaders and educators of the people have to undertake, vigorously and methodically, the task of educating, enlightening and preparing the people for carrying on the onerous responsibilities suddenly falling on them as citizens of a newly born full-fledged democratic republic.

The above is only the political side of India's free and democratic existence. The other and more important side is that of economic democracy. While in the hey-day of British imperialism in the 19th century, exploitation of the British labouring population and their factory working conditions were horrible, here in India with the very advent of independence, despite an underdeveloped economy,

trade union rights, improved working conditions and conciliation-machinery have been with us in the industrial sector in our growth effort.

On the economic side, there is another important aspect to note. We have accepted economic planning with the object of establishing a socialist form of society. Surely in a resource-poor country's backward economy, progress cannot be made on the basis of individualist competition and/or class conflict. A planned economy with socialist ideology and peaceful methods is dictated in our circumstances by the needs of an immature economy and the foundational system of full democracy laid down by a far-sighted and wise leadership.

Here is at once a disadvantage and an advantage both of which must be carefully noticed. The disadvantage is that, while the developed countries of today could effect their growth in relative international isolation in a leisurely way by improvising trial and error methods over periods of decades or even centuries, undeveloped countries of today, like India, in a world rendered small by rapid transport and communications, have to compete with the already developed countries. But the advantage is that the lessons of the long, hard and experimental efforts of the developed countries are available to us as ready instruments for us to forge our destiny in a narrow time-frame.

What will Indian journalists do in this situation? Will they go on extolling class-struggle as a 'religious' economic dogma, or obstructionist political methods as the dictate of political ideology, or will they explain and teach peaceful constructive action, individual and collective, so that people may help themselves and one another in the national growth effort? Just as minority rule, whatever might be its deceptive form, is undemocratic and outrageous, surely a majority rule which is unmindful of minority opinion or minority interests, is equally undemocratic and outrageous. Journalists must support first and last the cause of justice and humanity, whose-so-ever the Raj. Peaceful and rapid progress is only possible in our present context by resort to established democratic institutions and methods ushered in our day-to-day life by our far-sighted forbears immediately on the achievement of freedom. To explain and preach this is the role of journalism, especially Indian language journalism, in India today.

The immediate problem for India is, therefore, how to elevate the quality of the Indian Language dailies so as to raise them to the level of the highest quality dailies in their respective regions. The best English dailies should continue to thrive and move all over India. But they should also divert adequate resources from their profits to Indian language dailies so as to see that the regional language dailies not only match but even surpass their English counterparts.

My prayer is that the best quality English dailies in India should play the role of *Dhansutra* and *Sandeevani* to their Indian regional language youngsters. The tradition of our *Sandeevanis* was that they

aspired to be defeated at the hands of their disciples. **SHISHYAT ICHET PARABHAVAM** was the motto of our ancestral *Sandeevanis*.

- (x) *Indian Legislatures and the Privileges Issue—Dissenting note by Shri P. V. Gadgil relating to Section (7) on Contempt of Legislature in Chapter IV entitled "Constitution and Laws" (A study of powers, privileges and immunities of Indian legislatures, of members and of Committees thereof).*

The Indian Government system, and therefore legislature system also, is a two-tier structure. At the Centre is Parliament (or Sansad) with two Houses, Lok Sabha and Rajya Sabha. At the State level there are a Vidhan Sabha in each State and a Vidhan Parishad in some of the States. Article 105 and Article 194 deal with powers, privileges and immunities, respectively, of Central and State Legislatures and of members and committees thereof. The two Articles are exactly identical in terms except for their reference to the particular tier they apply to. The complete-text of them is given below with state legislature reference put into bracket of this kind ( ).

"Article 105 (194) (1) Subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of Parliament ((the Legislature)) there shall be freedom of speech in Parliament ((the Legislature of every State)).

(2) No Member of Parliament ((the Legislature of a State)) shall be liable to proceedings in any court in respect of anything said or in respect of any vote given by him in Parliament ((the Legislature)) or any Committee thereof, and no person shall be so liable in respect of the publication by or under the authority of either House of Parliament ((a House of such a Legislature)) of any report, paper, votes or proceedings.

(3) In other respects, the powers, privileges and immunities of each House of Parliament ((the legislature of a State)) and of the Members and Committees of each House shall be such as may from time to time be defined by Parliament ((the legislature)) by law, and until so defined [shall be those of that house and of its members and committees immediately before the coming into force of Section 15 of the Constitution (44th Amendment) Act 1978]\*.

(4) The provisions of clauses (1), (2) and (3) shall apply in relation to persons who by virtue of the Constitution have the right to speak in, and otherwise to take part in the 'proceedings' of a House of Parliament ((a House of Legislature of a State)) or any committee thereof as they apply in relation to Members of Parliament ((Legislature of a State))."

The wording and content of Arts. 105 and 194 being identical, as is obvious from the text given above, the Articles will be considered together.

\*Note—The words in bracket ( ) in clause 3 were substituted by the 44th Amendment for the words "shall be those of the House of Commons of the Parliament of the United Kingdom and of its committees and members thereof before the commencement of this Constitution".

There are two controversial issues arising out of their contents. One, freedom of expression in a Legislature, which is covered by clauses (1) and (2), and two, privilege, which is covered by clause (3). Clause (4) is non-controversial and needs no discussion. The two issues will be discussed in separate parts.

### Part I

Freedom of expression in the Constitution is a Fundamental Right, but it is not unrestricted, which is made clear by reading Articles 19 (1) (a) and 19 (2) together. But the freedom of expression given in 105 and 194 to a member of a legislative House is fully unrestricted and absolute under clause (1) of each of the two Articles. The only exception, under Articles 121 and 211, is discussion about judicial court proceedings. The freedom of publication of Legislature speeches and proceedings is, however, circumscribed by clause (2) of the same which lays down that legislature proceedings and speeches, if published by or under the authority of the Legislature, cannot be challenged in a law court.

The legal implications and consequences of this provision have been authoritatively laid down by Calcutta High Court (*Suresh v. Punit A.* 1951)\* where the Court has indicated that a newspaper is allowed to publish without legislative authority a report of a legislature speech, but if it contains allegations involving breach of any law, the newspaper will have to face a likely prosecution. On this issue, the position in England differs from that in the Indian Constitution. In England, parliamentary proceedings are freely published with impunity. In India the position in Art. 105 and in Art. 194, as explained by Calcutta High Court and which is contrary to the position in England, holds the ground. The reason is, in England there is no written Constitution : common law and usage govern Parliament there. We in India are governed by a statutory Constitution.

This position is not liked by many political leaders in India. Ever since the Constituent Assembly started debating the issue there has appeared to be a resentment against this position in the minds of the leadership.

But the dispassionate and far-seeing among the Constitution-makers realised the harm that unbridled freedom to publish legislature proceedings could cause. In this speech in the Constituent Assembly on clauses (1) and (2) of Articles 105 and 194 (Sections 85 and 169 respectively at that stage),

\*The immunity conferred by cl. (2) of Art. 105 or 194 of the Constitution was confined to publication 'by or under the authority of the House', and there was nothing else to except a newspaper report from the criminal law of defamation as codified in s. 499 of the Indian Penal Code. Hence, a newspaper report, however fair or faithful, would be under criminal liability for defamatory statements in such report, even though it merely reproduced a speech or other proceedings in the Legislature, or even though in civil proceedings the English Common Law rule in *Wason's Case* might be applicable.

Shri Ananthasayaram Ayyangar declared that while legislators had to be given unrestricted freedom to open their hearts and preach even violence, sedition or rebellion to persuade other Member to their view (this he regarded as an essential part of Parliamentary freedom and democracy and not even the presiding officer could stop the speech-making member from uttering what he liked), such speeches inciting crimes and offences could not be made available to the public with impunity.

The said Articles were later passed in the same form as was defended by Shri Ayyangar, and as they are to this day.

But agitation against restriction on newspapers' reporting of legislature proceedings has continued all the three decades and more, after the commencement of the Constitution. What is amazing is, without amending Articles 105 (1), (2) and 194 (1), (2), legislation and even constitutional amendment, crept into statute books though they are contrary to the content and implication of those Articles. This has resulted in difficulties and risks to the good name and decent life of the citizens.

The first Press Commission which published its report in 1954 seems to have taken the lead in this aberration. The Calcutta High Court's decision mentioned above was the main roadblock. How to remove it? The Commission did not recommend amendment of Articles 105(1), (2) and 194(1), (2) of the Constitution, but suggested amendment of the Indian Penal Code. In the Defamation Section (499) of I.P.C., there is permission to report with impunity court proceedings involving defamation. The Press Commission recommended that this permission should, by suitably amending S. 499 of I.P.C., be extended to Legislative proceedings also. The Commission failed to notice the important difference between the two situations. While in the case of publication of court proceedings resulting in defamation, the aggrieved party cannot sue the publisher under S. 499 of I.P.C. but surely has remedy under the same section against the defamer, in the case of publication of legislature proceedings, if freedom is given to the publisher by amending Sec. 499 of I.P.C., the publisher as well as the defamer would escape the clutches of S.499 of I.P.C., leaving the aggrieved citizen helplessly smarting under a grievous wrong. Besides in accepting the Press Commission's recommendation, the difficulty was that without amending the Constitutional provisions in Articles 105(1), (2) and 194(1), (2) of the Constitution, amending the Penal Code was not possible.

A new device, therefore, was adopted which sought to bypass the need of amending the Constitution and the Penal Code. A new legislation was formulated which permitted newspapers to publish Parliamentary proceedings to the extent of being substantially true. This legislation was passed in both Houses of Parliament by simple majorities in 1956. It was limited to the Central legislature only. This was regarded as an answer to the Calcutta High Court's decision mentioned earlier.

There were many flaws resulting from this new device. The Calcutta High Court had interpreted Articles 105 and 194 in the Constitution. The difficulty created by it could be removed only by an amendment of Articles 105 and 194 of the Constitution. Ignoring this, an ordinary legislation was passed as a measure to remove the difficulty. The new law, which transgressed the Constitution and was therefore illegal, remained on the statute book and in operation from 1956 to 1975. The law, as said above, was confined to Parliamentary proceedings only. It did not apply to state Legislature proceedings. But an impression spread somehow all over the country that this applied to the State Legislatures also.

Central and State legislatures then began to be used for character-assassination of rivals or enemies. Newspapers took part in this nefarious business enthusiastically and 'impartially' by publishing 'substantially true' reports of legislature proceedings. Anguished cries and complaints from people who found their character maligned through reporting of legislature proceedings became the order of the day, but the cries were derided or ignored.

In the wake of this legislation the Constitution was mauled in more than one way. An ordinary legislation was, here, used to thwart a constitutional effect, as I have already mentioned above. Therefore the law was void. What is more, the House of Parliament extended, without constitutional authority, a privileged freedom to newspapers—to the exclusion of other citizens—to publish, without legislature's authority, legislature reports with impunity. This violated the fundamental right to equality (Art 14). This illegal measure was repealed after 19 years, in 1975, not because it was illegal, but because it had been misused.

But the politician's obsession, that legislature orations must be published freely in India as in England, was not calmed down. In 1978, in the 44th Amendment, a new article—Article 361A—was added to the Constitution. It purported to be an improvement, because the privilege given to newspapers for publication of Parliamentary proceedings in the 1956 law was now enlarged to include publication of State Legislature proceedings also. Besides, it was now not an ordinary legislation but a constitutional amendment to counter a constitutional difficulty.

Did it, however, improve matters? No; the constitutional confusion became worse confounded. First, the new Article 361A, like the 1956 measure, continues to stand in contrast to Articles 105(1) (2) and 194(1) (2) (as interpreted by Calcutta High Court). Between Article 105(1) (2) and Article 194(1) (2) on the one hand and Article 361A on the other, the contrast is so clear and precise that no harmonious construction between the two is possible.

If a newspaper is given a privilege to publish legislature proceedings without authority, such a privilege given to a newspaper is unconstitutional under Article 105(1) (2), under Article 194 (1)(2), under entry No. 74 of 1st List and under entry No. 39 of 2nd List of the seventh schedule, because by adding

Article 361A to the constitution Parliament has transgressed limits put on Parliament's power to extend privilege under these provisions. Also, to extend such a privilege to newspaper while denying it to ordinary citizens goes against the fundamental right of equality (Article 14). Here also harmonious construction between Article 361A and Article 14 is impossible.

To remove this difficulty, an authority is quoted which is said to lay down that when a previous existing clause in the Constitution or in a law and a subsequent amendment are in conflict, and no harmonious construction is possible the subsequent amendment stays and the previous clause becomes void. If this is accepted, are we also to accept as a consequence that Article 14 as also Articles 105(1) (2) and 194(1) (2) became void in order to keep Article 361A alive and in an operative position? The legislators are silent on this question.

The judgement in the Keshavanand Bharati case lays down that any amendment of the Constitution of India which goes against any of the 'basic features' of the Constitution is itself void. Arts. 105(1) (2), 194(1) (2) and even more so, Art. 14, surely have elements of 'Basic Structure'. This is conveniently ignored.

The reader should recall here Shri Ayyangar's plea in the Constituent Assembly, as to why, in the interest of democracy, unrestricted freedom of expression must be given to a legislator in a legislative House, but on the contrary, why newspapers should not be granted the privilege of publishing legislature proceedings without authority. If that is accepted, than it calls clearly for the repeal of Article 361A.

There is a moral point also. Fame and good name are some of the unpronounced birthrights of a citizen. If one citizen defames another in public, the aggrieved party has a judicial remedy. But in a legislature speech, a legislator can with impunity defame any citizen [Articles 105 (1) and 194 (1)]. Now before Art. 361A was put in the Constitution the position was that if that defamation was published without authority of the concerned legislative House the aggrieved party could sue against the publisher in a court of law and could get his name cleared according to Calcutta High Court's interpretation of Articles 105 (1) (2) and 194 (1) (2). Now Article 361A comes to the rescue of the defaming publisher and paves the way for permitting assassination of character through the back door of legislatures. Article 361A therefore deserves to be repealed—the earlier the better.

To keep important provisions on the statute book and to reduce them to a dead letter by contrary provisions and contrary practice is derogatory and disastrous, in the extreme, to constitutional (not a conventional as in U.K.) democracy.

## Part 2

This part will deal with Articles 105(3) and 194(3). They are, as stated at the beginning of this statement, identical in terms and content except for one difference

that the former applies to the Central legislature and the latter to the State legislatures.

The text as it is before us is the text amended in the course of the 44th Amendment. From the day the Constitution commenced (26-1-1950) to the day when the 44th Amendment came into effect (20-6-1979) the words "shall be those (powers, privileges and immunities) of the House of Commons of U.K. and their members and their committees at the commencement of this Constitution" existed in the text. These words were replaced (from 20-6-1979) by the words "shall be those of that House and of its members and its committees immediately before the coming into force of Section 15 of Constitution (44th Amendment) Act of 1978". But this elaborate changing of words did not change the content. For almost thirty years, free India's legislatures have continued to enjoy the powers, privileges and immunities of the House of Commons. The 44th Amendment only deleted the explicit reference to House of Commons while continuing the same position, by suggesting that things will continue from 20-6-1979 as they were until 20-6-1979.

So while considering this clause we must ask ourselves the question, "What were the powers, privileges and immunities of the House of Commons at the commencement of our Constitution?"

A few extracts from the Constituent Assembly debates will indicate the doubts and difficulties that were expressed about these powers etc. in those days by some of our leaders and constitutional experts.

*Naziruddin Ahmed* : "Clause (3) of S.85 (Art.105) has been bodily lifted from Government of India Act 1935.... We should have our powers, privileges and immunities clearly and specifically defined. In fact the privileges of the members of the House of Commons are not statutory. They are embodied in the Common Law to be found in the text books which are many. They are also contained in case laws which are scattered.... But these should all be collected and defined, not left vague as at present. I suggest that at the end of the Constitution-text, there should be added a schedule defining powers, privileges and immunities, pending our Parliament making adequate laws in this respect".

*Pandit Thakurdas Bhargava* : "Not that I am ashamed of the reference to the House of Commons; but in a matter like this, it will again be shelving of an important question which is within the scope of the Constituent Assembly. After all, if we cannot find a solution to this difficult question may I know when the solution will be found? If today our jurists and leaders cannot define the privileges of the members of Legislatures I do not see at what point of time this would be possible."

*Dr. P.S. Deshmukh* : "What we want to know is whether it is not possible to embody them in the Constitution".

*Dr. B.R. Ambedkar* : "It is not easy to define what are the acts and the deeds which may be deemed to bring Parliament into disgrace. That would require a considerable amount of discussion and examination.

That is one reason why we did not think of enumerating these privileges and immunities .... As I said, if you want to categorise and set out in detail all the privileges and immunities it will take not less than twenty-five pages."

The above extracts are fairly representative of the mood, anxiety and doubts of the makers of the Constitution and the difficulties in their way. It is also necessary specifically to note Pandit Thakurdas Bhargava's prophetic exclamation : "If today our jurists and our leaders cannot define the privileges of the members of our legislatures, I do not see at what point of time this would be possible".

Once, at that time, the enumeration of privileges was avoided by the Constituent Assembly, it was never done afterwards, and of late people who claim to know, tell us that not only will it never be done but that in important circles of all political parties there is a thinking that any kind of identification and enumeration of privileges is not necessary and must never be done.

Dr. Rajendra Prasad who presided over the Constituent Assembly had expressed his confidence that the new Legislatures which would be born would surely undertake the task of formulating the privileges. But in his two innings as President of the Republic he and the elected Governments at the Centre, and the Governments in the States consigned the issue to oblivion.

Later in a U.P. breach-of-privilege controversy the dispute was submitted by the then President of India to the Supreme Court (under Article 143) for 'opinion'. This 'opinion' delivered by the Supreme Court (1964) did not say anything about whether the Legislature should or should not formulate their privileges. The Supreme Court, however, expressed a view that House of Commons privileges can be accepted by Indian legislatures subject to the provisions of the Indian Constitution and hinted also that since the privileges of the House of Commons arose out of a bloody civil war history, Indian legislatures with a completely different historic background should search into their Constitution itself for a way out of a deadlock arising from privileges issue.

What is more, the Supreme Court supplied a guideline derived from the provisions of the Constitution for all citizens and Legislatures to follow.\*

But this 'opinion' and the particular breach of privilege issue that caused it were all left where they were and quietly forgotten. Thereafter it appears that there has been developing a consensus on the

\*Article 212(1) seems to make it possible for a citizen to call in question in the appropriate court of law the validity of any proceeding inside the legislative chamber if his case is that the said proceedings suffer not from mere irregularity of procedure, but from an illegality. If the impugned procedure is illegal and unconstitutional, it would be open to be scrutinised in a court of law though such scrutiny is prohibited if the complaint against the procedure is no more than this, that the procedure was irregular. That against is another indication which may afford some assistance in construing the scope and extent of the powers conferred on the House by Article 194(3).—"Opinion of the Supreme Court" (1964).

part of leaders and legislators of all parties that privileges of Indian legislators need never be formulated. If the leaders and legislators had also agreed to avoid the exercise of any of the supposed powers arising out of their privileges, the citizens of India would have had nothing to complain or worry about. But the legislators have always desired to use those powers: They have admonished, prosecuted, arrested and convicted the victims of breach-of-privilege accusations. A high-ranking elected member of the Lok Sabha was, on being so convicted, also imprisoned and was deprived of her seat in the House and disqualified to stand as candidate for any election for a certain period, though there is no authority for all this in our written Constitution.

Every citizen of India is now in danger of being so treated but, so far, mostly journalists have been the victims of these prosecutions.\* This has spread so much fear in the journalists' world that breach of privilege cases are reported scantily, and the defence of the accused is scarcely reported or supported. In a case where the accused made a reference to this 'resign-of-terror' atmosphere, his prosecutors retorted that "this attitude on the part of journalists indicated their support to the prosecution."

Legislatures have their own rules and regulations which govern their internal administration. Breach of privileges arising in this sphere, *i.e.*, arising out of a breach of regulation, cannot be inquired into by law

\*On 16th November, 1973, the Maharashtra Legislative Assembly committed to imprisonment for 30 days Shri Pradeep Dalvi, Editor, *Prashasti*, a Marathi weekly as he was held guilty of breach of privilege and contempt of the Assembly. On 18th November, 1973, I wrote an editorial in the Marathi daily, *Lokmat*, which contained some comments on the manner in which the decision to imprison Shri Dalvi was taken by the Assembly. A motion of breach of privilege was moved by a Member of the Assembly against me and the matter was referred to the Committee of Privileges. The Committee came to the conclusion that the editorial as a whole, *prima facie*, constituted breach of privilege and contempt of the House. Issues were framed and I was asked to comment.

I contended that while it is true that the Assembly had correctly followed the procedure laid down by the rules made by itself, that would not satisfy the needs of justice as Shri Dalvi was not heard personally by the Assembly before awarding the punishment. The procedure followed in trials before the Law Courts should have been followed strictly by the Legislature also. Shri Dalvi should have been given the list of privileges as they were in vogue in the House of Commons at the time of commencement of our Constitution. The Legislature, I maintained, could not take on all the three roles of the prosecutor, the judge and the executioner while affording no ordinary privileges to a citizen. I said that the codification of privileges should not be delayed any further.

The Committee found that the editorial produced an effect in the minds of the public so as to belittle, or to cast reflections on, or ridicule the Assembly. It held that there is a distinction between a quasi judicial body and the law courts and the provisions of Criminal Procedure Code are not applicable to matters before quasi judicial bodies. The Committee referred to my plea for codification of privileges and said that it has been a subject matter of debate in the Press and outside. It expressed the view that "the main reason behind this agitation for codification is obviously to invite judicial interference in the domain of legislature—a situation which was incompatible with and repugnant to the supremacy and independence of the legislature". (Report of the Privileges Committee, Maharashtra Legislative Assembly, August 1974, page 7). The Committee accordingly recommended that I be called before the Assembly and be admonished.

courts and this is an exclusive sphere of the particular Legislative House to deal with (Articles 122 and 212). There is no quarrel with this position. However, if an alleged breach of privilege is not on the ground of violation of any rules and regulations of a legislative House, then the legislature has no jurisdiction to try the case. If the impugned action should be violative of any law, it will be for the courts to deal with it.

Even in regard to alleged breaches of privileges of the latter kind—not involving violation of any rules and regulations of a legislative House—my quarrel is not in regard to the prosecution as such but to a procedure which abides by no law. It is conducted thoroughly lawlessly.

To convey to the reader a fair idea of the lawlessness involved in prosecution for supposed breach of privilege, not entailing violation of any rules and regulations of a legislative House, I beg to enlist and explain some of the major faults which the accused has to encounter.

#### (i) Constitutional Requirements

Article 20(1) of the Constitution requires that if a person is to be accused of an offence, that offence has to have been named and defined by a law. It has to be shown that the accused, by his impugned act or behaviour, has violated that law. He should know which act or behaviour of his amounts to that offence, so that the accused knows what he has to defend against.

The law defining the offence must also have laid down the penalty. A penalty more severe than this punishment or sentence may not be inflicted on the accused if convicted.

A breach-of-privilege prosecution, however, relates to no offence named or defined by any law. The accused is not told, in terms of law, how his impugned action or behaviour constitutes what offence, of which category.

The accused therefore is completely at a loss to know what wrong, in terms of law, he has committed. And he is at a loss to know how he must defend himself against what.

#### (ii) Procedure

Now let us see the procedure. When a Legislative House passes by a majority a resolution that 'x' has insulted the House by a certain writing or behaviour, the case is by another resolution handed over to a Privileges Committee of the House.

The Committee has to summon the accused before itself and to ask him to explain his side. The accused may be cross-examined. Other evidence may be examined.

If as a result of this proceeding the accused is found not guilty, he will be declared innocent. But if the accused feels that he was put to all this trouble for a frivolous purpose or malicious motive, he has no authority available to appeal to.



If the accused, on the other hand, is pronounced guilty by the Committee, the Committee is also authorised to recommend a penalty of its own conception: no law defining an offence and prescribing a penalty is taken as the basis for prosecution, and the law relating to evidence does not apply.

Article 21 lays down that no person shall be deprived of his life or personal liberty except according to procedure established by law. In the breach-of-privilege prosecution proceedings no procedure established by any law is followed.

### (iii) *No competence*

The point to be noted here is that while the Privileges Committee undertakes what in fact are criminal prosecution proceedings, it has no criminal investigation competence, no investigative apparatus, and no authority conceded by the Constitution or by a law passed under the Constitution to undertake criminal trials. The only difference between a street mob arresting a person and handing him over to a select few in the mob for trial, on the one hand, and a Legislative House handing over a person to its committee on the other, is that the mob is not elected and the members of the House out of whom the Privileges Committee is formed are elected.

But the legislators are not elected to undertake criminal trials, nor elected because they possess such a competence. Even literacy, not to speak of higher education, is no part of the qualification for being accepted by the Election Commission as a candidate for being elected to a legislature. Before such a tribunal, the helpless and puzzled accused is forced to appear.

There is nothing to stop this illegal tribunal from recommending that the accused be flogged or be hanged from the nearest lamp-post.

### (iv) *No right of appeal*

Further, the accused has no right to appeal to any authority, or even to the accusing House of a legislature. The Privileges Committee's recommendation is only placed before the House. The decision has to be arrived at by a majority. This means and implies that every member must form his own opinion and must therefore have an opportunity to hear, see and take evidence himself and to know at first hand the accused's mind and his plea. But the accused is not called before the House as of right, to enable him by stating his case, to canvass minds and votes to his side when even a single vote may tilt the balance for or against him. A majority vote or minority vote in the present procedural system is a blind and deaf vote.

### (v) *Separation of Powers*

There is further fault in this procedural system which results in breach of 'basic structure' of the Constitution. The accuser and prosecutor becomes the judge and the executioner, making nonsense of the spirit of the Constitution which requires that the Legislature, Judiciary and Executive must each

of them occupy separate spheres and exercise suitably divided and defined authority.

If we seek guidance from our Constitution on this point, Article 61 serves our purpose best. There, in the resident's impeachment proceedings, if one of the two Houses intends to accuse the President, the other House is exclusively authorised to undertake investigation proceedings, examine evidence and give judgment itself by a two-thirds majority without delegating any of its deciding powers to a committee.

That the current breach-of-privilege-prosecution procedure completely ignores this important and precise guidance in the Constitution is a great pity. It is in fact an insult to the Constitution.

### (vi) *One offence—Two prosecutions*

Article 20(2) of the Constitution lays down that no person shall be prosecuted and punished for the same offence more than once. And the breach-of-privilege-prosecution proceedings undertaken by legislatures are not recognised by the regular judiciary. So the victim of the proceedings continues to remain liable to be assailed again by the regular judiciary. Here he faces a new situation rendered difficult because of being prejudiced, himself having been convicted and sentenced by a body which has not been given a judicial status by the Constitution or by any law.

### *The Way Out*

Is there a way out of this absurd and cruel situation?

The ex-imperial British Government has given a clue to that end, which few or none may have noticed. It is mentioned in one of the above quoted Constituent Assembly speeches that clause (3) of Art. 105 was bodily lifted from the British Parliament's Government of India Act 1935. That was only part of S. 28 of that Act i.e. Sec. 28(1) (2). Clause (3) of section 28 of that legislation which was not taken went on to say :

"Nothing in any existing Indian Act, and, notwithstanding anything in the foregoing provisions of this section, nothing in this Act shall be construed as conferring, or empowering the Federal legislature to confer, on either Chamber or on both Chambers sitting together, or on any committee or officer of the Legislature, the status of a court, or any punitive or disciplinary powers other than a power to remove or exclude persons infringing the rules or standing orders, or otherwise behaving in a disorderly manner"

The view of British Parliament as is clear from this is not only that contempt of legislature prosecution must be lodged in law courts, but also that Indian Democracy can adopt House of Commons Privileges only to the extent of their fitting in the Indian Constitution.



The Constituent Assembly while bodily lifting S. 28(1) and (2) from Government of India Act 1935, did not pick up S. 28(3). They may have or may not have intentionally avoided incorporating S. 28(3) in Article 105 and Article 194. But its historic significance cannot be ignored. This omission cannot be understood to confer on free India's legislatures the status of law courts, unless it can be shown that such a status is given in specific terms in our written Constitution. That 'Indian legislatures have never been given the status of law courts' has been emphatically maintained also by the Supreme Court in its 'opinion' referred to above.

The Supreme Court in its 'opinion' also clinches the whole issue in a nice and precise way which I have referred to above, as a 'guideline'. The Supreme Court in its 'opinion' was thrashing out a breach of legislature privilege issue. But instead of giving guideline directly to the legislature they have supplied a way out to a citizen accused of contempt of legislature by seeking relief from judiciary in the first instance.

The Supreme Court has also laid down that it is the duty of law Courts to entertain complaints from citizens who feel aggrieved by accusations of breach of privilege of legislature or contempt of legislature. The court should examine by legitimate and lawful procedure whether the accusation involved a breach of law of the land or a breach of regulation of the legislature House. In the former case the court should ask the legislature to come to the court as prosecutor and in the latter case the court should advise the accused that for the desired relief he must go to the accuser.

This sage guidance from the Supreme Court has never been looked into and propagated even by prominent newspapers. But it is yet not too late to do it, because unless people awaken and assert their rights, the ruling powers will not refrain from humiliating and insulting those whom they want to curb or wreak vengeance on.

The legislators at the Centre and the state level should heed the advice indirectly given by the Supreme Court in its 'opinion' by pointing to the contents of Art. 212 (As also Art. 122).

If Article 122 (1) and (2) [also 212 (1) and (2)] is carefully analysed, one comes to understand that legislatures surely have regulatory powers with regard to their own proceedings in which the judiciary cannot interfere. They can also make laws, but cannot undertake coercive or penal action for enforcement of these laws. They cannot take the law into their own hands, because they lack judicial authority.

If and when the legislators define their powers, privileges and immunities by codifying them in a law, according to Article 105(3) [also 194(3)], then they will be the law of the land (not just rules and regulations for legislature proceedings) and all proceedings for breaches of privileges will have to go to the judiciary for inquiry, trial decision and final order. The legislators cannot arrogate to themselves the powers of a court of law.

### *Amendment of Art. 105 (and Art. 194)*

The above interpretation and argumentation indicate the correct understanding as I see it, of Art. 105 (and Art. 194). It may not however, remove the doubts of the hesitant and obstinacy of those to any change from the present position. This hesitancy and obstinacy however have proved dangerous and iniquitous. The straight and right way out of the difficulty is to amend Art. 105 (and Art. 194), on the lines of Clause (3) of Sec. 28 of the Government of India Act 1935. Accordingly I beg to propose that the following be inserted as (3) (a) between clauses (3) and (4) of Art. 105 (also of 194):

"Nothing in any existing law and, notwithstanding anything in the foregoing provisions of this article, nothing in this article, shall be construed as conferring, or empowering Parliament (State Legislature) to confer, on either House or on both Houses sitting together, or on any committee or officer of Parliament (a State Legislature) the Status of a court, or any punitive or disciplinary powers other than a power to remove or exclude persons infringing the rules or standing orders, or otherwise behaving in a disorderly manner."

(xi) *Dissenting note of Shri Prem Chand Verma relating to Chapter VI.*

### *RIGHT TO PRIVACY*

In any democratic society a citizen is the most important primary factor and to the extent his freedom independence and privacy is respected and protected does democracy become more relevant and functional. This freedom is guaranteed by the Indian Constitution.

2. It is therefore necessary that a citizen is not only entitled to have freedom of information but his personal life is properly protected. Just as it is necessary to protect him from physical harm by any member of the society, similarly it is necessary to protect his reputation and character from being harmed or destroyed.

3. It is a well accepted moral code of journalism that before anything adverse and damaging the character of any member of the society is published the onus of taking care to ascertain the facts is on the person who publishes the same. While by and large this principle is observed, there have been instances where newspapers and periodicals ignore it and indulge in character assassination. Such practices constitute breach of Code of Ethics.

4. Whenever a derogatory item regarding an individual is published the well accepted norm is that in case the individual involved sent a contradiction in his defence, the publisher, if he is satisfied that the affected party had a point to make, should publish the same fairly prominently. Not to publish it or to publish it in a manner which did not provide sufficient means of clarification or to publish it at a place where it would go unnoticed is considered a breach of Code of Ethics.

5. In order to seek redress of his grievance against violation of such individual freedom, by any newspaper or periodical, he should be able to represent his case to the Press Council of India or a similar authority. Such an authority should have the power and means to take corrective or compensatory measures. Such a provision is necessary not only for protecting the individual freedom but in the interest of fostering healthy journalism. But protection under the right to privacy should not extend to those individuals when their actions are related to their public life or to their duties as Government servants. In such matters Press is the only effective agency to inform the public of true facts. Another danger in not providing effective means of redressal of such grievances can result in some individuals resorting to retaliation through extra-legal methods and violence to vindicate their sense of honour.

6. It is also important that the procedure laid down by the Press Council of India or any other authority that may be set up for this purpose, should be such that a final decision is taken within a period of six months as otherwise the grievance would seem to have been perpetuated.

(xii) *Dissenting note of Shri Prem Chand Verma relating to Chapter VII*

I recommend the following additions in Chapter VII of the Press Commission Report entitled "Freedom and Responsibility : Role of the Press Council" :

(i) *Foreign money in the Indian Press (Para 37)*

Large sums of foreign money are being brought into India clandestinely and are being used against the interests of the country. A part of this money is being given to newspapers. It is therefore necessary that the Press Council of India or some other agency keeps a constant watch on it and devises such steps that foreign money is not able to corrupt the Indian Press, newspapers and journalists. The following measures may be adopted for this purpose :

(a) The newspapers which own printing presses and undertake printing work from foreign missions, trade commissions, and other foreign institutions and organisations should be required to file annual returns indicating the rates charged for printing work and the total amounts received from each party, with the Press Registrar and the Press Council of India. The return should also include information with regard to printing machinery imported for setting up of new printing presses or for expansion of existing printing presses together with true copies of invoices, and documents showing clearance through banking channels. Details from all printing presses installed or expanded during the past five years should be called. Newspapers should be required to include above details in their balance sheets and profit and loss accounts.

(b) The journalists who go abroad on foreign hospitality should be required to file a return with the authority appointed showing details of gifts etc. received during such trips.

(c) The Press Council should be competent to entertain and inquire into any complaints against journalists regarding undue financial or other gain from a foreign country and to take action against those found guilty.

(ii) *Composition of the Council (Para 48)*

The Press Council need ensure that it approves for representation on the Council only such Associations which have an all India character and cover sizeable membership from at least 75 per cent of Indian States and Union Territories and that their rates of subscription are reasonable. Highest Membership and revenue should be taken into account.

(xiii) *Dissenting note of Shri Prem Chand Verma relating to Chapter X—The Press as a Public Utility*

*Chain Newspapers*

In a democratic country, particularly a vast country like ours, where the number of literates is comparatively small and that too comprises largely lower middle class, the importance of media in influencing the public opinion becomes rather significant, among which newspapers media counts most. If this mass media happens to be at the beck and call of a few industrialists or some other rich people for achieving their personal gain and influence and opposes progressive policies day in and day out in order to bring failure to them, can there be anything more dangerous than this for the people and the democracy?

2. While the Report deals with the issue of delinking of industrial houses from newspapers elsewhere, in para 25 under the heading "Chain Newspapers" the recommendations made do not appear to be either suitable or adequate. I therefore record my dissenting note as under:—

The figures given below will show circulations of newspapers with common ownership (8 chain newspapers) indicating the percentage they represent of total circulation in the country:

Name of group	No. of papers	Total circulation	Newsprint allocation (1980)
1	2	3	4
1. Express Newspapers (Indian Express Group).	25	15,76,071	41,452 M.T.
2. Bennett Coleman & Co., (Times of India Group).	25	27,96,991	37,194 M.T.
3. Hindustan Times Group.	10	9,44,398	18,363 M.T.
4. Kasturi & Sons Ltd.	6	2,64,519	16,143 M.T.
5. Malayalam Manorama Group.	4	8,76,742	13,221 M.T.
6. Ananda Bazar Patrika Group.	18	11,12,485	11,796 M.T.
7. Amrita Bazar Patrika.	7	5,10,737	10,688 M.T.
8. Statesman Group	2	2,49,998	9,382 M.T.
	97	83,31,941	1,58,289 M.T.

1. Total Number of Newspapers	No. of newspapers in 8 chain groups of newspapers	Percentage of total
5694	110	1.70%
2. Total circulation of all newspapers	Circulation of 8 chain newspapers	Percentage of total
4,64,49,000	83,31,941	18%
3. Total newsprint allotment for 2039 newspapers	Allotment for 8 chain newspapers	Percentage of total
3,42,901 M.T.	1,58,239 M.T.	46.47%

The figures mentioned above will show that the 8 chain newspapers (110 newspapers) are merely 2 per cent of 5694 newspapers in the country. But they take away 46.47 per cent of the total newsprint on which the country spends nearly Rs. 95 crores in foreign exchange. The allotment of the total newsprint of 3,42,901 M.T. is done by the Government as under:—

Big newspapers	2,34,685 M.T.	68.44%
Medium newspapers	78,124 M.T.	22.78%
Small newspapers	30,092 M.T.	8.78%
<b>TOTAL</b>	<b>3,42,901 M.T.</b>	

3. The *Express* Group alone gets  $1\frac{1}{2}$  times newsprint of the total allocation to small newspapers all over India. *Times of India* group too gets more than the total allocation of all small newspapers. The story in the matter of release of advertisement is no different and almost the same ratio and pattern obtains.

4. If the above mentioned chain newspapers and some other groups are permitted to go on bringing out more and more editions, there is no doubt whatever that only the views of a very small group of people would influence the public opinion and only such news as they would wish would be published.

5. Thus the chain newspapers are a definite source of danger to the freedom of Press on the one hand and a big factor in weakening the roots of democracy on the other hand. In this manner the large industrial houses which have already acquired considerable control on the economic resources of the country, would also gain undue influence on political and social life

of the country. The freedom of Press and democracy would then exist in name only and far removed from reality.

6. The chain newspapers shift their existing machinery to smaller cities, establish big printing presses, thereby gradually eliminating the existing newspapers on the one hand, instal sophisticated and modern imported equipment in larger cities for ousting medium newspapers there on the other. A process has been set in motion which is extremely dangerous for the existence of small and medium newspapers particularly language newspapers. I, therefore, make the following recommendations to prevent the hold of chain newspapers on the Indian Press:—

- (i) No newspapers should be permitted to bring out more than 3 editions throughout the country and not more than 2 editions in a single State.
- (ii) The Government of India and State Governments should not release more than 2 sets and one set of advertisements respectively to chain newspapers.
- (iii) In order to control the monopoly trend of chain newspapers suitable changes be made in MRTP Act.
- (iv) All editions of a chain newspaper in the country with the same name even though each edition may have different Board of Directors, should for all purposes be treated as one newspaper.
- (v) A company of chain newspapers publishing dailies, weeklies and other periodicals should be treated as a single unit for the purpose of newsprint allocation and for determining its classification as big, small or medium.
- (vi) Specific measures be taken to ensure that chain newspapers are not able to unduly influence the political, economic and social life of the country on the one hand and do not hinder development and growth of small and medium newspapers on the other.